

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 432 of the Regular Session

As Engrossed: H2/17/09 S3/9/09

A Bill

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

HOUSE BILL 1403

4  
5 By: Representatives J. Edwards, *Shelby, Ingram*

6 By: *Senator D. Johnson*  
7  
8

9 **For An Act To Be Entitled**

10 AN ACT TO CREATE THE UNIFORM EMERGENCY VOLUNTEER  
11 HEALTH PRACTITIONERS ACT; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 THE UNIFORM EMERGENCY VOLUNTEER HEALTH  
15 PRACTITIONERS ACT.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 12, Chapter 87 is amended to add an  
21 additional chapter to read as follows:

22 UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT  
23

24 12-87-101. Title.

25 This chapter may be cited as the "Uniform Emergency Volunteer Health  
26 Practitioners Act".  
27

28 12-87-102. Definitions.

29 In this chapter:

30 (1) "Disaster relief organization" means an entity that provides  
31 emergency or disaster relief services that include health or veterinary  
32 services provided by volunteer health practitioners and that:

33 (A) is designated or recognized as a provider of those  
34 services pursuant to a disaster response and recovery plan adopted by an  
35 agency of the federal government or the Arkansas Department of Emergency



1 Management; or

2 (B) regularly plans and conducts its activities in  
3 coordination with an agency of the federal government or the Arkansas  
4 Department of Emergency Management.

5 (2) "Emergency" means an event or condition that is a disaster  
6 emergency under § 12-75-107 or § 12-75-108.

7 (3) "Emergency declaration" means a declaration of emergency  
8 issued by a person authorized to do so under the laws of this state,  
9 executive order or proclamation of the Governor or § 12-75-107 or § 12-75-  
10 108.

11 (4) "Emergency Management Assistance Compact" means the  
12 interstate compact approved by Congress by Public Law No. 104-321, 110 Stat.  
13 3877, codified at § 12-49-401 et seq.

14 (5) "Entity" means a person other than an individual.

15 (6) "Health facility" means an entity licensed under the laws of  
16 this or another state to provide health or veterinary services.

17 (7) "Health practitioner" means an individual licensed under the  
18 laws of this or another state to provide health or veterinary services.

19 (8) "Health services" means the provision of treatment, care,  
20 advice or guidance, or other services, or supplies, related to the health or  
21 death of individuals or human populations, to the extent necessary to respond  
22 to an emergency, including:

23 (A) The following, concerning the physical or mental  
24 condition or functional status of an individual or affecting the structure or  
25 function of the body:

26 (i) preventive, diagnostic, therapeutic,  
27 rehabilitative, maintenance, or palliative care; and

28 (ii) counseling, assessment, procedures, or other  
29 services;

30 (B) Sale or dispensing of a drug, a device, equipment, or  
31 another item to an individual in accordance with a prescription; and

32 (C) Funeral, cremation, cemetery, or other mortuary  
33 services.

34 (9) "Host entity" means an entity operating in this state which  
35 uses volunteer health practitioners to respond to an emergency.

36 (10) "License" means authorization by a state to engage in

1 health or veterinary services that are unlawful without the authorization.  
2 The term includes authorization under the laws of this state to an individual  
3 to provide health or veterinary services based upon a national certification  
4 issued by a public or private entity.

5 (11) "Person" means an individual, corporation, business trust,  
6 trust, partnership, limited liability company, association, joint venture,  
7 public corporation, government or governmental subdivision, agency, or  
8 instrumentality, or any other legal or commercial entity.

9 (12) "Scope of practice" means the extent of the authorization  
10 to provide health or veterinary services granted to a health practitioner by  
11 a license issued to the practitioner in the state in which the principal part  
12 of the practitioner's services are rendered, including any conditions imposed  
13 by the licensing authority.

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

17 (14) "Veterinary services" means the provision of treatment,  
18 care, advice or guidance, or other services, or supplies, related to the  
19 health or death of an animal or to animal populations, to the extent  
20 necessary to respond to an emergency, including:

21 (A) diagnosis, treatment, or prevention of an animal  
22 disease, injury, or other physical or mental condition by the prescription,  
23 administration, or dispensing of vaccine, medicine, surgery, or therapy;

24 (B) use of a procedure for reproductive management; and

25 (C) monitoring and treatment of animal populations for  
26 diseases that have spread or demonstrate the potential to spread to humans.

27 (15) "Volunteer health practitioner" means a health practitioner  
28 who provides health or veterinary services, whether or not the practitioner  
29 receives compensation for those services. The term does not include a  
30 practitioner who receives compensation pursuant to a preexisting employment  
31 relationship with a host entity or affiliate which requires the practitioner  
32 to provide health services in this state, unless the practitioner is not a  
33 resident of this state and is employed by a disaster relief organization  
34 providing services in this state while an emergency declaration is in effect.

35  
36 12-87-103. Applicability to volunteer health practitioners.

1 This chapter applies to volunteer health practitioners registered with  
2 a registration system that complies with § 12-87-105 and who provide health  
3 or veterinary services in this state for a host entity while an emergency  
4 declaration is in effect.

5  
6 12-87-104. Regulation of services during emergency.

7 (a) While an emergency declaration is in effect, the Department of  
8 Health may limit, restrict, or otherwise regulate:

9 (1) the duration of practice by volunteer health practitioners;

10 (2) the geographical areas in which volunteer health  
11 practitioners may practice;

12 (3) the types of volunteer health practitioners who may  
13 practice; and

14 (4) any other matters necessary to coordinate effectively the  
15 provision of health or veterinary services during the emergency.

16 (b) An order issued pursuant to subsection (a) may take effect  
17 immediately, without prior notice or comment, and is not a rule within the  
18 meaning of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

19 (c) A host entity that uses volunteer health practitioners to provide  
20 health or veterinary services in this state shall:

21 (1) consult and coordinate its activities with the Department of  
22 Health to the extent practicable to provide for the efficient and effective  
23 use of volunteer health practitioners; and

24 (2) comply with any laws other than this chapter relating to the  
25 management of emergency health or veterinary services, including the  
26 Emergency Medical Services Revolving Fund Act, § 20-13-101 et seq.

27  
28 12-87-105. Volunteer health practitioner registration systems.

29 (a) To qualify as a volunteer health practitioner registration system,  
30 a system must:

31 (1) accept applications for the registration of volunteer health  
32 practitioners before or during an emergency;

33 (2) include information about the licensure and good standing of  
34 health practitioners which is accessible by authorized persons;

35 (3) be capable of confirming the accuracy of information  
36 concerning whether a health practitioner is licensed and in good standing

1 before health services or veterinary services are provided under this  
2 chapter; and

3 (4)(A) be designated by the Arkansas Department of Emergency  
4 Management as a registration system for purposes of this chapter.

5 (B) The department may consider and may approve a request  
6 for the designation a registration system submitted by a disaster relief  
7 organization, licensing board, national or regional association of licensing  
8 boards or healthcare practitioners, a health facility that provides  
9 comprehensive inpatient and outpatient healthcare services, or host entity,  
10 or and may on its own initiative approve registration systems established by  
11 this state or other states funded through the Department of Health and Human  
12 Services under Section 3197 of the Public Health Services Act, 42 U.S.C.  
13 §247d, or by medical reserve corps units formed under Section 2801 of the  
14 Public Health Services Act, 42 U.S.C. § 300hh

15 (b) While an emergency declaration is in effect, the Arkansas  
16 Department of Emergency Management, a person authorized to act on behalf of  
17 the Arkansas Department of Emergency Management, or a host entity, may  
18 confirm whether volunteer health practitioners utilized in this state are  
19 registered with a registration system that complies with subsection (a).  
20 Confirmation is limited to obtaining identities of the practitioners from the  
21 system and determining whether the system indicates that the practitioners  
22 are licensed and in good standing.

23 (c) Upon request of a person in this state authorized under subsection  
24 (b), or a similarly authorized person in another state, a registration system  
25 located in this state shall notify the person of the identities of volunteer  
26 health practitioners and whether the practitioners are licensed and in good  
27 standing.

28 (d) A host entity is not required to use the services of a volunteer  
29 health practitioner even if the practitioner is registered with a  
30 registration system that indicates that the practitioner is licensed and in  
31 good standing.

32  
33 12-87-106. Recognition of volunteer health practitioners licensed in  
34 other states.

35 (a) While an emergency declaration is in effect, a volunteer health  
36 practitioner, registered with a registration system that complies with § 12-

1 87-105 and licensed and in good standing in the state upon which the  
2 practitioner's registration is based, may practice in this state to the  
3 extent authorized by this chapter as if the practitioner were licensed in  
4 this state.

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

11  
12 12-87-107. No effect on credentialing and privileging.

13 (a) In this section:

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

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

22 (b) This chapter does not affect credentialing or privileging  
23 standards of a health facility and does not preclude a health facility from  
24 waiving or modifying those standards while an emergency declaration is in  
25 effect.

26  
27 12-87-108. Provision of volunteer health or veterinary services;  
28 administrative sanctions.

29 (a) Subject to subsections (b) and (c), a volunteer health  
30 practitioner shall adhere to the scope of practice for a similarly licensed  
31 practitioner established by the licensing provisions, practice acts, or other  
32 laws of this state.

33 (b) Except as otherwise provided in subsection (c), this chapter does  
34 not authorize a volunteer health practitioner to provide services that are  
35 outside the practitioner's scope of practice, even if a similarly licensed  
36 practitioner in this state would be permitted to provide the services.

1       (c) The Arkansas Department of Emergency Management may modify or  
2 restrict the health or veterinary services that volunteer health  
3 practitioners may provide pursuant to this chapter. An order under this  
4 subsection may take effect immediately, without prior notice or comment, and  
5 is not a rule within the meaning of the Arkansas Administrative Procedure  
6 Act, § 25-15-201 et seq.

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

9       (e) A volunteer health practitioner does not engage in unauthorized  
10 practice unless the practitioner has reason to know of any limitation,  
11 modification, or restriction under this section or that a similarly licensed  
12 practitioner in this state would not be permitted to provide the services. A  
13 volunteer health practitioner has reason to know of a limitation,  
14 modification, or restriction or that a similarly licensed practitioner in  
15 this state would not be permitted to provide a service if:

16           (1) the practitioner knows the limitation, modification, or  
17 restriction exists or that a similarly licensed practitioner in this state  
18 would not be permitted to provide the service; or

19           (2) from all the facts and circumstances known to the  
20 practitioner at the relevant time, a reasonable person would conclude that  
21 the limitation, modification, or restriction exists or that a similarly  
22 licensed practitioner in this state would not be permitted to provide the  
23 service.

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

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

30           (2) may impose administrative sanctions upon a practitioner not  
31 licensed in this state for conduct in this state in response to an in-state  
32 emergency; and

33           (3) Shall report any administrative sanctions imposed upon a  
34 practitioner licensed in another state to the appropriate licensing board or  
35 other disciplinary authority in any other state in which the practitioner is  
36 known to be licensed.

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

6  
7       12-87-109. Relation to other laws.

8       (a) This chapter does not limit rights, privileges, or immunities  
9 provided to volunteer health practitioners by laws other than this chapter.  
10 Except as otherwise provided in subsection (b), this chapter does not affect  
11 requirements for the use of health practitioners pursuant to the Emergency  
12 Management Assistance Compact, § 12-49-401 et seq.

13       (b) The Arkansas Department of Emergency Management, pursuant to the  
14 Emergency Management Assistance Compact § 12-49-401 et seq. and the  
15 Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., may  
16 incorporate into the emergency forces of this state volunteer health  
17 practitioners who are not officers or employees of this state, a political  
18 subdivision of this state, or a municipality or other local government within  
19 this state.

20  
21       12-87-110. Regulatory authority.

22       The Arkansas Department of Emergency Management may promulgate rules to  
23 implement this chapter. In doing so, the Arkansas Department of Emergency  
24 Management shall consult with and consider the recommendations of the entity  
25 established to coordinate the implementation of the Emergency Management  
26 Assistance Compact, codified at § 12-49-401 et seq. and the Interstate Civil  
27 Defense and Disaster Compact, § 12-76-101 et seq. and shall also consult with  
28 and consider rules promulgated by similarly empowered agencies in other  
29 states to promote uniformity of application of this chapter and make the  
30 emergency response systems in the various states reasonably compatible.

31  
32       12-87-111. Limitations on civil liability for volunteer health  
33 practitioners.

34       (a) Subject to subsection (b), a volunteer health practitioner who  
35 receives compensation of five hundred dollars (\$500) or less per year for  
36 providing health or veterinary services pursuant to this chapter is not



1 liable for damages for an act or omission of the practitioner in providing  
2 those services. Reimbursement of, or allowance for, reasonable expenses, or  
3 continuation of salary or other remuneration while on leave, is not  
4 compensation under this subsection.

5 (b) This section does not limit the liability of a volunteer health  
6 practitioner for:

7 (1) willful misconduct or wanton, grossly negligent, reckless,  
8 or criminal conduct;

9 (2) an intentional tort;

10 (3) breach of contract;

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

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

16 (c) A person that, pursuant to this chapter, operates, uses, or relies  
17 upon information provided by a volunteer health practitioner registration  
18 system is not liable for damages for an act or omission relating to that  
19 operation, use, or reliance unless the act or omission is an intentional tort  
20 or is willful misconduct or wanton, grossly negligent, reckless, or criminal  
21 conduct.

22  
23 12-87-112. Workers' compensation coverage.

24 (a) In this section, "injury" means a physical or mental injury or  
25 disease for which an employee of this state who is injured or contracts the  
26 disease in the course of the employee's employment would be entitled to  
27 benefits under the workers' compensation or occupational disease law of this  
28 state.

29 (b) A registered volunteer health practitioner who dies or is injured  
30 as the result of providing health or veterinary services pursuant to this  
31 chapter is deemed to be an employee of this state for the purpose of  
32 receiving benefits for the death or injury under the workers' compensation or  
33 occupational disease law of this state if:

34 (1) the practitioner is not otherwise eligible for such benefits  
35 for the injury or death under the law of this or another state; and

36 (2) the practitioner, or in the case of death the practitioner's

1 personal representative, elects coverage under the workers' compensation or  
2 occupational disease law of this state by making a claim under that law; and

3 (3) the practitioner is acting under the control or direction of  
4 the Arkansas Department of Emergency Management, the Governor or another  
5 state government agency.

6 (c) The Arkansas Department of Emergency Management shall certify to  
7 the Public Employee Claims Division of the State Insurance Department the  
8 names and registration information for each registered volunteer health  
9 practitioner working in this state under this chapter.

10 (d)(1) Benefits payable for the injury or death of a registered  
11 volunteer health practitioner covered by this chapter shall be limited to the  
12 provisions of the Workers' Compensation Law, § 11-9-101 et seq. Benefits are  
13 payable if the injury or death occurred while the person was:

14 (A) actually engaged in emergency service duties, either  
15 during training or during a period of emergency; and

16 (B) under the supervision and instruction and subject to  
17 the order or control of, or serving pursuant to a request of, the Governor,  
18 the Arkansas Department of Emergency Management, or the chief executive  
19 officer of a county or local government unit making use of registered  
20 volunteer health practitioners.

21 (2) The remedy provided in this section shall be the exclusive  
22 remedy as against the state and political subdivisions of the state.

23 (3)(A) For the purpose of workers' compensation coverage in  
24 cases of injury to or death of an individual, a registered volunteer health  
25 practitioner is deemed a state employee and shall receive compensation and a  
26 survivor of a registered volunteer health practitioner shall receive death  
27 benefits in the same manner as a regular state employee for injury or death  
28 arising out of and in the course of activities as registered volunteer health  
29 practitioners.

30 (B) If the registered volunteer health practitioner was under  
31 the order or control of a state agency when injured or killed, compensation  
32 and benefits shall be charged against the experience rate of the Arkansas  
33 Department of Emergency Management and paid from the appropriate state  
34 workers' compensation fund.

35 (4)(A) For the purpose of subdivision (d)(3) of this section,  
36 the weekly compensation benefits for a registered volunteer health

1 practitioner who receives no monetary compensation for services rendered as a  
2 worker under this chapter shall be calculated based upon the wages received  
3 from his or her regular or usual employment, the same as a regular state  
4 employee, with respect to injury, disability, or death.

5 (B) The reimbursement of twenty-five dollars (\$25.00) or  
6 less for out-of-pocket expenses for gasoline, oil, uniforms, required  
7 equipment, or similar expenses incurred in response to an emergency situation  
8 shall not be construed to be monetary compensation for the registered  
9 volunteer health practitioner.

10  
11 12-87-113. Uniformity of application and construction.

12 In applying and construing this uniform act, consideration must be  
13 given to the need to promote uniformity of the law with respect to its  
14 subject matter among states that enact it.

15  
16 12-87-114. [Reserved]

17  
18 12-87-115. Effective date.

19 This chapter takes effect October 1, 2009.

20  
21 SECTION 2. Arkansas Code § 12-75-128(e)(2), concerning limitations on  
22 out-of-state physicians acting as emergency responders, is amended to read as  
23 follows.

24 ~~(2)(A) — However, subdivision (e)(1) of this section shall not~~  
25 ~~apply to required medical licenses except in cases of first aid treatment.~~  
26 Subdivision (e)(1) of this section does not apply to a license issued to a  
27 health practitioner, as defined in § 12-87-102.

28 (B) However, a health practitioner license issued by  
29 another state is recognized in this state to the extent provided under this  
30 chapter, the Interstate Civil Defense and Disaster Compact, § 12-76-101 et  
31 seq., the Uniform Volunteer Health Practitioners Act, § 12-87-101 et seq.,  
32 and other laws of this state.

33  
34 */s/ J. Edwards*

35  
36 **APPROVED: 3/16/2009**