

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.

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

A Bill

HOUSE BILL 1403

4
5 By: Representative J. Edwards
6
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE UNIFORM EMERGENCY VOLUNTEER
10 HEALTH PRACTITIONERS ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 THE UNIFORM EMERGENCY VOLUNTEER HEALTH
14 PRACTITIONERS ACT.
15
16

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

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

21 UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT

22
23 12-87-101. Title.

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

27 12-87-102. Definitions.

28 In this chapter:

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

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

36 (B) regularly plans and conducts its activities in



1 coordination with an agency of the federal government or the Arkansas
2 Department of Emergency Management.

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

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

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

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

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

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

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

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

24 (i) preventive, diagnostic, therapeutic,
25 rehabilitative, maintenance, or palliative care; and

26 (ii) counseling, assessment, procedures, or other
27 services;

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

30 (C) Funeral, cremation, cemetery, or other mortuary
31 services.

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

34 (10) "License" means authorization by a state to engage in
35 health or veterinary services that are unlawful without the authorization.
36 The term includes authorization under the laws of this state to an individual

1 to provide health or veterinary services based upon a national certification
2 issued by a public or private entity.

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

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

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

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

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

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

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

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

33

34 12-87-103. Applicability to volunteer health practitioners.

35 This chapter applies to volunteer health practitioners registered with
36 a registration system that complies with § 12-87-105 and who provide health

1 or veterinary services in this state for a host entity while an emergency
 2 declaration is in effect.

3
 4 12-87-104. Regulation of services during emergency.

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

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

8 (2) the geographical areas in which volunteer health
 9 practitioners may practice;

10 (3) the types of volunteer health practitioners who may
 11 practice; and

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

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

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

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

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

25
 26 12-87-105. Volunteer health practitioner registration systems.

27 (a) To qualify as a volunteer health practitioner registration system,
 28 a system must:

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

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

33 (3) be capable of confirming the accuracy of information
 34 concerning whether a health practitioner is licensed and in good standing
 35 before health services or veterinary services are provided under this
 36 chapter; and

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

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

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

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

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

30
 31 12-87-106. Recognition of volunteer health practitioners licensed in
 32 other states.

33 (a) While an emergency declaration is in effect, a volunteer health
 34 practitioner, registered with a registration system that complies with § 12-
 35 87-105 and licensed and in good standing in the state upon which the
 36 practitioner's registration is based, may practice in this state to the

1 extent authorized by this chapter as if the practitioner were licensed in
2 this state.

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

9

10 12-87-107. No effect on credentialing and privileging.

11 (a) In this section:

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

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

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

24

25 12-87-108. Provision of volunteer health or veterinary services;
26 administrative sanctions.

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

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

35 (c) The Arkansas Department of Emergency Management may modify or
36 restrict the health or veterinary services that volunteer health

1 practitioners may provide pursuant to this chapter. An order under this
2 subsection may take effect immediately, without prior notice or comment, and
3 is not a rule within the meaning of the Arkansas Administrative Procedure
4 Act, § 25-15-201 et seq.

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

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

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

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

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

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

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

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

35 (g) In determining whether to impose administrative sanctions under
36 subsection (f), a licensing board or other disciplinary authority shall

1 consider the circumstances in which the conduct took place, including any
 2 exigent circumstances, and the practitioner's scope of practice, education,
 3 training, experience, and specialized skill.

4
 5 12-87-109. Relation to other laws.

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

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

18
 19 12-87-110. Regulatory authority.

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

29
 30 12-87-111. Limitations on civil liability for volunteer health
 31 practitioners.

32 (a) Subject to subsection (b), a volunteer health practitioner who
 33 receives compensation of five hundred dollars (\$500) or less per year for
 34 providing health or veterinary services pursuant to this chapter is not
 35 liable for damages for an act or omission of the practitioner in providing
 36 those services. Reimbursement of, or allowance for, reasonable expenses, or

1 continuation of salary or other remuneration while on leave, is not
2 compensation under this subsection.

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

5 (1) willful misconduct or wanton, grossly negligent, reckless,
6 or criminal conduct;

7 (2) an intentional tort;

8 (3) breach of contract;

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

11 or

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

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

20

21 12-87-112. Workers' compensation coverage.

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

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

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

34 (2) the practitioner, or in the case of death the practitioner's
35 personal representative, elects coverage under the workers' compensation or
36 occupational disease law of this state by making a claim under that law; and

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

4 (c) A registered volunteer health practitioner who dies or is injured
 5 as the result of providing health or veterinary services pursuant to this
 6 chapter is deemed to be an employee of a city or county for the purpose of
 7 receiving benefits for the death or injury under the workers' compensation or
 8 occupational disease law of this state if the practitioner is acting under
 9 the control or direction of a city or county government official.

10 (d) The Arkansas Department of Emergency Management shall certify to
 11 the Public Employee Claims Division of the State Insurance Department the
 12 names and registration information for each registered volunteer health
 13 practitioner working in this state under this chapter.

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

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

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

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

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

34 (B)(i) If a registered volunteer health practitioner is
 35 injured or killed while subject to the order or control of a local
 36 government, compensation and benefits shall be charged against the applicable

1 local government's experience rate and paid from the appropriate workers'
 2 compensation fund.

3 (ii) If the registered volunteer health practitioner
 4 was under the order or control of a state agency when injured or killed,
 5 compensation and benefits shall be charged against the experience rate of the
 6 Arkansas Department of Emergency Management and paid from the appropriate
 7 state workers' compensation fund.

8 (4)(A) For the purpose of subdivision (d)(3) of this section,
 9 the weekly compensation benefits for a registered volunteer health
 10 practitioner who receives no monetary compensation for services rendered as a
 11 worker under this chapter shall be calculated based upon the wages received
 12 from his or her regular or usual employment, the same as a regular local or
 13 state employee, with respect to injury, disability, or death.

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

19
 20 12-87-113. Uniformity of application and construction.

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

24
 25 12-87-114. [Reserved]

26
 27 12-87-115. Effective date.

28 This chapter takes effect October 1, 2009.

29
 30 SECTION 2. Arkansas Code § 12-75-128(e)(2), concerning limitations on
 31 out-of-state physicians acting as emergency responders, is amended to read as
 32 follows.

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

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

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