

UNIFORM EMERGENCY VOLUNTEER HEALTHCARE PRACTITIONERS ACT*

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-FIFTEENTH YEAR
HILTON HEAD, SOUTH CAROLINA

JULY 7-14, 2006

UNIFORM EMERGENCY VOLUNTEER HEALTHCARE PRACTITIONERS ACT

WITHOUT PREFATORY NOTE OR COMMENTS

Copyright © 2006
By
National Conference of Commissioners
on Uniform State Laws

* The following text is subject to revision by the Committee on Style of the National Conference of Commissioners on Uniform State Laws.

ABOUT NCCUSL

The **National Conference of Commissioners on Uniform State Laws** (NCCUSL), now in its 115th year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

Conference members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- NCCUSL strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- NCCUSL statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- NCCUSL keeps state law up-to-date by addressing important and timely legal issues.
- NCCUSL's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- NCCUSL's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- NCCUSL Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- NCCUSL's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.
- NCCUSL is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

**DRAFTING COMMITTEE ON UNIFORM EMERGENCY VOLUNTEER
HEALTHCARE PRACTITIONERS ACT**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting this Act consists of the following individuals:

RAYMOND P. PEPE, 17 N. Second St., 18th Floor, Harrisburg, PA 17101-1507, *Chair*

ROBERT G. BAILEY, University of Missouri-Columbia, 217 Hulston Hall, Columbia, MO 65211

STEPHEN C. CAWOOD, 108 1/2 Kentucky Ave., P.O. Drawer 128, Pineville, KY 40977-0128

KENNETH W. ELLIOTT, City Place Building, 204 N. Robinson Ave., Suite 2200, Oklahoma City, OK 73102

THOMAS T. GRIMSHAW, 1700 Lincoln St., Suite 3800, Denver, CO 80203

THEODORE C. KRAMER, 45 Walnut St., Brattleboro, VT 05301

AMY L. LONGO, 8805 Indian Hills Dr., Suite 280, Omaha, NE 68114-4070

JOHN J. MCAVOY, 3110 Brandywine St. NW, Washington, DC 20008

DONALD E. MIELKE, 7472 S. Shaffer Ln., Suite 100, Littleton, CO 80127

JAMES G. HODGE, JR., Johns Hopkins Bloomberg School of Public Health, 624 N. Broadway, Baltimore, MD 21205-1996, *Reporter*

EX OFFICIO

HOWARD J. SWIBEL, 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606, *President*

LEVI J. BENTON, State of Texas, 201 Caroline, 13th Floor, Houston, TX 77002, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISORS

BRYAN ALBERT LIANG, California Western School of Law, 350 Cedar St., San Diego, CA 92101, *ABA Advisor*

PRISCILLA D. KEITH, 3838 N. Rural St., Indianapolis, IN 46205-2930, *ABA Section Advisor*

EXECUTIVE DIRECTOR

WILLIAM H. HENNING, University of Alabama School of Law, Box 870382, Tuscaloosa, AL 35487-0382, *Executive Director*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
211 E. Ontario Street, Suite 1300
Chicago, Illinois 60611
www.nccusl.org

UNIFORM EMERGENCY VOLUNTEER HEALTHCARE SERVICES ACT

TABLE OF CONTENTS

| | |
|---|---|
| SECTION 1. SHORT TITLE | 1 |
| SECTION 2. DEFINITIONS..... | 1 |
| SECTION 3. CONDITIONS APPLICABLE TO PROVIDING HEALTHCARE OR VETERINARY SERVICES | 3 |
| SECTION 4. VOLUNTEER HEALTHCARE PRACTITIONER REGISTRATION SYSTEMS..... | 4 |
| SECTION 5. INTERSTATE LICENSURE RECOGNITION FOR VOLUNTEER HEALTHCARE PRACTITIONERS..... | 5 |
| SECTION 6. PROVISION OF VOLUNTEER HEALTHCARE OR VETERINARY SERVICES; ADMINISTRATIVE SANCTIONS..... | 6 |
| SECTION 7. EFFECT OF COMPENSATION ON VOLUNTEER STATUS..... | 7 |
| SECTION 8. RELATION TO OTHER LAWS..... | 7 |
| SECTION 9. REGULATORY AUTHORITY | 7 |
| [SECTION 10. CIVIL LIABILITY FOR VOLUNTEER HEALTHCARE PRACTITIONERS; VICARIOUS LIABILITY.] | 8 |
| [SECTION 11. WORKERS' COMPENSATION COVERAGE.]..... | 8 |
| SECTION 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION..... | 8 |
| SECTION 13. SEVERABILITY | 9 |

UNIFORM EMERGENCY VOLUNTEER HEALTHCARE PRACTITIONERS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Emergency Volunteer Healthcare Practitioners Act.

SECTION 2. DEFINITIONS. As used in this [act]:

(1) **“Comprehensive healthcare facility”** means a healthcare facility that provides comprehensive inpatient and outpatient healthcare services. The term includes tertiary care and teaching hospitals.

(2) **“Disaster relief organization”** means an entity that provides emergency or disaster relief services that include healthcare or veterinary services provided by volunteer healthcare practitioners and that (A) is designated or recognized as a provider of such services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the [name of appropriate state agency or agencies], or (B) regularly plans and conducts its activities in coordination with an agency of the federal government or the [name of appropriate agency or agencies].

(3) **“Emergency”** means an event or condition that constitutes an [emergency, disaster, or public health emergency] as defined by the [designate the appropriate laws of this state] and that may require the provision of healthcare or veterinary services .

Legislative Note: The terms “emergency,” “disaster,” and “public health emergency” are the most commonly used terms to describe the circumstances that may lead to the issuance of an emergency declaration referred to in this [act]. States that use other terminology should insert the appropriate terminology into the first set brackets. The second set of brackets should contain references to the specific statutes pursuant to which emergencies are declared by the state.

(4) **“Emergency declaration”** means a declaration of an emergency issued by a person authorized to do so by the laws of this state [, a political subdivision of this state, or a municipality or other local government within this state].

Legislative Note: References to declarations issued by political subdivisions, municipalities or local governments should be used in states in which these entities are authorized to issue emergency declarations.

(5) **“Emergency Management Assistance Compact”** refers to the mutual aid agreement ratified by Congress and signed into law in 1996 as Public Law 104-321, and

subsequently enacted by this state and codified at [cite].

(6) **“Emergency System for Advance Registration of Volunteer Health Professionals”** means a registration system established by a state and funded through the Health Resources Services Administration under Section 107 of the federal Public Health Security and Bioterrorism Preparedness and Response Act of 2002, P.L. 107-188.

(7) **“Entity”** means a person other than an individual.

(8) **“Healthcare facility”** means an entity licensed by the laws of this or another state to provide healthcare or veterinary services.

(9) **“Healthcare practitioner”** means an individual licensed in this or another state to provide healthcare or veterinary services.

(10) **“Healthcare services”** means the provision of care, services including advice or guidance, or supplies related to the health or death of individuals, or to populations, to the extent necessary to respond to an emergency, including (A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure concerning the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; (B) sale or dispensing of a drug, device, equipment, or other item to an individual in accordance with a prescription; and (C) funeral, cremation, cemetery, or other mortuary services.

(11) **“Host entity”** means an entity in this state that uses volunteer healthcare practitioners to respond to an emergency.

(12) **“License”** means authorization granted by a state to engage in healthcare or veterinary services otherwise considered unlawful without such authorization. The term includes authorization granted by the laws of this state to an individual to provide healthcare or veterinary services based upon a national certification issued by a public or private entity.

(13) **“Medical Reserve Corps”** means a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to Section 2801 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, P.L. 107-188.

(14) **“Person”** means an individual or a corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government, or

governmental subdivision, agency, or instrumentality, or any other legal or commercial organization.

(15) **“Scope of practice”** means the extent of the authorization to provide healthcare or veterinary services granted to a healthcare practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner’s services are rendered, including any conditions imposed by the licensing authority.

(16) **“State”** means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Legislative Note: Nothing prevents a state from expanding the reach of this [act] by defining “state” to include a foreign country, political subdivision of a foreign country, or Indian tribe or nation.

(17) **“Veterinary services”** means the provision of care, services including advice or guidance, or supplies related to the health or death of an animal, or to animal populations, to the extent necessary to respond to an emergency, including (A) diagnosis, treatment, or prevention of any animal disease, injury, or other physical, dental, or mental condition by the prescription, administration, or dispensing of any vaccine, medicine, surgery, or therapy; and (B) the use of any procedure for reproductive management; and (C) the monitoring and treatment of animal populations for diseases that have or demonstrate the potential to spread to humans.

(18) **“Volunteer healthcare practitioner”** means a healthcare practitioner who provides healthcare or veterinary services in this state while an emergency declaration is in effect and who, if employed is not precluded from that status under Section 7.

SECTION 3. CONDITIONS APPLICABLE TO PROVIDING HEALTHCARE OR VETERINARY SERVICES.

(a) This [act] applies to volunteer healthcare practitioners only if they are providing healthcare or veterinary services for a host entity while an emergency declaration is in effect.

(b) While an emergency declaration is in effect, the [name of appropriate agency or agencies] may limit, restrict, or otherwise regulate (1) the duration of practice by volunteer healthcare practitioners, (2) the geographical areas in which volunteer healthcare practitioners may practice, (3) the types of volunteer healthcare practitioners who may practice, and (4) any

other matters necessary to coordinate effectively the provision of healthcare or veterinary services during the emergency. Orders or directives issued pursuant to this section are not subject to the requirements of the [*State Administrative Procedures Act pertaining to the promulgation of regulations*].

(c) A host entity that uses volunteer healthcare practitioners to provide healthcare or veterinary services in this state must (1) consult and coordinate its activities with the [*name of the appropriate agency or agencies*] to the extent practicable to provide for the efficient and effective use of volunteer healthcare practitioners, and (2) comply with any other applicable laws relating to the management of emergency healthcare or veterinary services.

SECTION 4. VOLUNTEER HEALTHCARE PRACTITIONER REGISTRATION SYSTEMS.

(a) In order to be a registration system, a system must:

(1) accept applications for the registration of volunteer healthcare practitioners prior to or during an emergency;

(2) include information about the licensure and good standing of practitioners that is accessible by authorized personnel; and

(3) be capable of verifying the accuracy of information concerning whether a practitioner is licensed and in good standing prior to the time healthcare or veterinary services are provided under this [act].

(b) This [act] applies to volunteer healthcare practitioners only if they are registered with a registration system that complies with subsection (a) and is:

(1) an Emergency System for Advance Registration of Volunteer Healthcare Professionals or a Medical Reserve Corps unit;

(2) operated by a disaster relief organization, licensing board, national or regional association of licensing boards or healthcare practitioners, comprehensive healthcare facility, or governmental entity; or

(3) designated by [*name of appropriate agency or agencies*] as a registration system for purposes of this [act].

(c) While an emergency declaration is in effect, the [*name of appropriate agency or agencies*], a person or persons authorized to act on behalf of the [*agency or agencies*], or a host

entity, are authorized to confirm whether volunteer healthcare practitioners utilized in this state are registered with a registration system. Confirmation is limited to obtaining notification from the registration system of the identities of the practitioners and determining whether the system indicates that they are licensed and in good standing.

(d) Upon request of personnel in this state authorized by subsection (c), or similarly authorized personnel in another state, a registration system located in this state must provide notification of the identities of volunteer healthcare practitioners and whether they are licensed and in good standing.

(e) A host entity is not required to use the services of a volunteer healthcare practitioner even if the practitioner is registered with a registration system that confirms that the practitioner is licensed and in good standing.

SECTION 5. INTERSTATE LICENSURE RECOGNITION FOR VOLUNTEER HEALTHCARE PRACTITIONERS.

(a) While an emergency declaration is in effect, a volunteer healthcare practitioner, registered pursuant to Section 4 and licensed and in good standing in another state, may practice in this state to the extent authorized by this [act] as if the person had been licensed in this state.

(b) A volunteer healthcare practitioner whose license is suspended, revoked, or subject to an agency order limiting or restricting practice privileges, or who has voluntarily terminated a license under threat of sanction, in any state is not entitled to the rights, privileges, and immunities authorized by this [act].

(c) This [act] does not affect credentialing or privileging standards of a healthcare facility, nor does it preclude a healthcare facility from waiving or modifying such standards while an emergency declaration is in effect. For purposes of this subsection:

(1) credentialing means obtaining, verifying, and assessing the qualifications of a healthcare practitioner to provide patient care, treatment, and services in or for a healthcare facility, and

(2) privileging means the authorization granted by an appropriate authority, such as a governing body, to a healthcare practitioner to provide specific care, treatment, and services at a healthcare facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized judgment.

SECTION 6. PROVISION OF VOLUNTEER HEALTHCARE OR VETERINARY SERVICES; ADMINISTRATIVE SANCTIONS.

(a) Subject to subsections (b) and (c), a volunteer healthcare practitioner must adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

(b) Subject to subsection (c), nothing in this [act] authorizes a volunteer healthcare practitioner to provide services that are outside the practitioner's scope of practice even if a similarly licensed practitioner in this state would be permitted to provide the services.

(c) The [*name of appropriate agency or agencies*] may modify or restrict the healthcare or veterinary care services that a volunteer healthcare practitioner may provide pursuant to this [act]. An order or directive modifying the services a practitioner may provide pursuant to this subsection is not subject to the requirements of the [*State Administrative Procedures Act pertaining to the promulgation of regulations*].

(d) A host entity may restrict the healthcare or veterinary services that a volunteer healthcare practitioner may provide pursuant to this [act]

(e) A volunteer healthcare practitioner shall not be found to be engaged in unauthorized practice unless the practitioner had reason to know of any limitations, modifications or restrictions under subsections (a), (c) or (d) or that a similarly licensed practitioner in this state would not be permitted to provide the services. For the purposes of this subsection, a volunteer healthcare practitioner has reason to know if the practitioner (1) has actual knowledge of a modification or restriction, or (2) from all the facts and circumstances known to the practitioner at the time in question, a reasonable person would conclude that a modification or restriction exists.

(f) A licensing board or other disciplinary authority in this state:

(1) may impose administrative sanctions upon a healthcare practitioner licensed in this state for wrongful conduct in response to an emergency that occurs outside this state;

(2) may impose administrative sanctions upon a practitioner not licensed in this state for wrongful conduct in response to an emergency that occurs in this state; and

(3) must report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other

state in which the practitioner is known to be licensed.

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

SECTION 7. EFFECT OF COMPENSATION ON VOLUNTEER STATUS.

(a) Subject to subsection (b), the prospective, concurrent, or retroactive payment of monetary or other compensation to a healthcare practitioner by any person for the provision of healthcare or veterinary services while an emergency declaration is in effect does not preclude the practitioner from being a volunteer healthcare practitioner under this [act],

(b) Subsection (a) does not apply if compensation is provided to a healthcare practitioner pursuant to a preexisting employment relationship with the host entity or an affiliate of the host entity that requires the practitioner to provide healthcare or veterinary services in this state.

(c) Subsection (b) does not apply to a healthcare practitioner who is not a resident of this state and who is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

SECTION 8. RELATION TO OTHER LAWS.

(a) This [act] does not limit rights, privileges, or immunities provided to volunteer healthcare practitioners by other laws. Except as provided in subsection (b), this [act] does not affect requirements for the use of volunteer healthcare practitioners pursuant to the Emergency Management Assistance Compact.

(b) The [*name of appropriate agency or agencies*] may incorporate into state forces pursuant to the Emergency Management Assistance Compact a volunteer healthcare practitioner who is not an employee of this state, a political subdivision of this state, or a municipality or other local government within this state.

Legislative Note: References to other emergency assistance compacts to which the state is a party should be added.

SECTION 9. REGULATORY AUTHORITY. The [*name of appropriate agency or agencies*] [is] [are] authorized to promulgate regulations to implement the provisions of this [act]. In doing so, the [*name of appropriate agency or agencies*] shall consult with, and consider

the recommendations of, the entity established to coordinate the implementation of the Emergency Management Assistance Compact and shall also consult with, and consider the regulations promulgated by, similarly empowered agencies in other states in order to promote uniformity of application of this act and thereby make the emergency response systems in the various states reasonably compatible.

[SECTION 10. CIVIL LIABILITY FOR VOLUNTEER HEALTHCARE PRACTITIONERS; VICARIOUS LIABILITY.]

RESERVED

Legislative Note: Final action regarding Section 10 of the Act has been deferred until the 2007 Annual Meeting of the National Conference of Commissioners on Uniform State Laws. At that time, the Drafting Committee will present to the Conference for consideration its final recommendations relating to the limitation of civil liability for damages for volunteer healthcare practitioners and organizations that use and maintain registration systems for volunteer healthcare practitioners. Because many States have existing laws pertaining to liability limitations and a uniform approach to liability limitations may play a critical role in promoting the use of volunteer healthcare practitioners, States considering adoption of this Act prior to final action by the National Conference regarding Section 10 should carefully review their existing laws, the laws of other states, provisions of the Emergency Management Assistance Compact, and the work of the Drafting Committee, which is available at <http://www.law.upenn.edu/bll/ulc/ulc>.

[SECTION 11. WORKERS' COMPENSATION COVERAGE.]

RESERVED

Legislative Note: Final action regarding Section 11 of the Act has been deferred until the 2007 Annual Meeting of the National Conference of Commissioners on Uniform State Laws. At that time, the Drafting Committee will present to the Conference for consideration its final recommendations regarding the provision of workers' compensation coverage for volunteer healthcare practitioners without other forms of workers' compensation or disability insurance coverage. Because the establishment of a reasonably uniform system to compensate volunteer practitioners for injuries sustained while responding to emergencies is critical to an effective system of legislation to promote the use of volunteer healthcare practitioners, States considering adoption of this Act prior to final action by the National Conference regarding Section 11 should carefully review the laws of other states providing workers' compensation coverage to volunteers responding to emergencies, provisions of the Emergency Management Assistance Compact, and the work of the Drafting Committee, which is available at <http://www.law.upenn.edu/bll/ulc/ulc>.

SECTION 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing the provisions of this [act], consideration must be given to the need to

promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 13. SEVERABILITY. The provisions of this [act] are severable. If any provision of this [act] or its application to any person or circumstance is held invalid, such holding does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application.