

BILL ANALYSIS

Senate Research Center
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H.B. 746
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In response to the problems that arise in the deployment of health practitioners during devastating natural disasters, because of the lack of uniformity in state laws regarding the scope of practice and licensing of such practitioners, the Uniform Law Commission (ULC) has developed a model uniform law to regulate volunteer health practitioners providing services during emergencies. The goal is to provide a system whereby health practitioners in any state can be deployed to health care facilities and disaster relief organizations in another state in which an emergency is occurring and can follow a clearly understood protocol in meeting the needs of the volunteers and relief agencies while ensuring the delivery of quality care to disaster victims. H.B. 746 accommodates the provisions of ULC's model law to ensure proper registration, scope of practice, liabilities, and recognition of licenses of health practitioners in disaster situations on an intrastate basis.

H.B. 746 amends current law relating to the registration of volunteer health practitioners and the services of volunteer health practitioners during disasters.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Division of Emergency Management in SECTION 1 (Section 115.010, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 3, Occupations Code, by adding Chapter 115, as follows:

CHAPTER 115. HEALTH OR VETERINARY SERVICES PROVIDED IN CATASTROPHIC CIRCUMSTANCES

Sec. 115.001. SHORT TITLE. Authorizes this chapter to be cited as the Uniform Emergency Volunteer Health Practitioners Act.

Sec. 115.002. DEFINITIONS. Defines "department," "disaster relief organization," "division," "emergency," "emergency declaration," "Emergency Management Assistance Compact," "entity," "health facility," "health practitioner," "health services," "host entity," "license," "scope of practice," "veterinary services," and "volunteer health practitioner" in this chapter.

Sec. 115.003. APPLICABILITY TO VOLUNTEER HEALTH PRACTITIONERS. Provides that this chapter applies to volunteer health practitioners who are registered with the system administered by the Department of State Health Services (DSHS) under Section 115.005 and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

Sec. 115.004. REGULATION OF SERVICES DURING EMERGENCY. (a) Authorizes the Texas Division of Emergency Management (division) by order, while an emergency declaration is in effect, to limit, restrict, or otherwise regulate:

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

(2) the geographical areas in which volunteer health practitioners are authorized to practice;

(3) the types of volunteer health practitioners who are authorized to practice; and

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

(b) Authorizes an order issued under Subsection (a) to take effect immediately, without prior notice or comment, and is not a rule within the meaning of Chapter 2001 (Administrative Procedure), Government Code.

(c) Requires a host entity that uses volunteer health practitioners to provide health or veterinary services in this state to:

(1) consult and coordinate its activities with the division to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) comply with laws in addition to this chapter relating to the management of emergency health or veterinary services.

Sec. 115.005. VOLUNTEER HEALTH PRACTITIONER REGISTRATION SYSTEM.

(a) Requires DSHS to administer a volunteer health practitioner registration system that:

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

(2) includes information about the licensing and good standing of health practitioners that is accessible by authorized persons;

(3) is capable of confirming whether a health practitioner is licensed and in good standing before health or veterinary services are provided by the practitioner under this chapter; and

(4) includes information regarding the results of a criminal history record information check performed on the volunteer health practitioners listed in the system.

(b) Authorizes DSHS, to satisfy a requirement of Subsection (a) or (c), to:

(1) use information available in the Texas disaster volunteer registry maintained by DSHS; or

(2) enter into agreements with disaster relief organizations or the verification systems of other states for the advance registration of volunteer health practitioners under 42 U.S.C. Section 247d-7b.

(c) Requires a state agency that grants a license to a health practitioner, while an emergency declaration is in effect, to coordinate with DSHS to provide licensing or criminal history record information for volunteer health practitioners seeking registration under this chapter.

(d) Prohibits DSHS, if an applicant for registration under this chapter has an unacceptable licensing or criminal history, from allowing the applicant to register, and prohibits the applicant from serving as a volunteer health practitioner under this chapter.

(e) Authorizes the division, a person authorized to act on behalf of the division, or a host entity, while an emergency declaration is in effect, to confirm whether volunteer health practitioners used in this state are registered with the registration system under Subsection (a). Provides that confirmation is limited to obtaining the identity of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing and have an acceptable criminal history.

(f) Requires DSHS, on request by a person in this state authorized under Subsection (e) or a similarly authorized person in another state, to notify the person of the identity of volunteer health practitioners registered with the registration system and whether the practitioners are licensed and in good standing and have an acceptable criminal history.

(g) Provides that a host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with the registration system and the system indicates that the practitioner is licensed and in good standing and has an acceptable criminal history.

Sec. 115.006. RECOGNITION OF VOLUNTEER HEALTH PRACTITIONERS LICENSED IN OTHER STATES. (a) Authorizes a volunteer health practitioner registered with the registration system under Section 115.005 who is licensed and in good standing in another state and has an acceptable criminal history, while an emergency declaration is in effect, to practice in this state to the extent authorized by this chapter as if the practitioner were licensed in this state.

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

Sec. 115.007. NO EFFECT ON CREDENTIALING AND PRIVILEGING. (a) Defines "credentialing" and "privileging" in this section.

(b) Provides that this chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Sec. 115.008. PROVISION OF VOLUNTEER HEALTH OR VETERINARY SERVICES; ADMINISTRATIVE SANCTIONS. (a) Requires a volunteer health practitioner, subject to Subsections (b) and (c), to adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions or other laws of this state.

(b) Provides that, except as otherwise provided by Subsection (c), this chapter does not authorize a volunteer health practitioner to provide a service that is outside the practitioner's scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the service.

(c) Authorizes the division to modify or restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter. Authorizes an order under this subsection to take effect immediately, without prior notice or comment, and is not a rule within the meaning of Chapter 2001, Government Code.

(d) Authorizes a host entity to restrict the health or veterinary services that a volunteer health practitioner is authorized to provide under this chapter.

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

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

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

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

(1) is authorized to impose administrative sanctions on a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

(2) is authorized to impose administrative sanctions on a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

(3) is required to report any administrative sanction imposed on 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) Requires a licensing board or other disciplinary authority, in determining whether to impose an administrative sanction under Subsection (f), to consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

Sec. 115.009. RELATION TO OTHER LAWS. (a) Provides that this chapter does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Provides that, except as otherwise provided by Subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) Authorizes the division, under the Emergency Management Assistance Compact, to incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state or a political subdivision of this state.

Sec. 115.010. REGULATORY AUTHORITY. Authorizes the division to adopt rules to implement this chapter. Requires the division, in adopting rules, to consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact and to consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity in the application of this chapter and to make the emergency response systems in the various states reasonably compatible.

Sec. 115.011. LIMITATIONS ON CIVIL LIABILITY FOR VOLUNTEER HEALTH PRACTITIONERS. (a) Provides that, subject to Subsection (c), a volunteer health practitioner who provides health or veterinary services under this chapter is not liable for damages for an act or omission of the practitioner in providing those services.

(b) Provides that a person is not vicariously liable for damages for an act or omission of a volunteer health practitioner if the practitioner is not liable for the damages under Subsection (a).

(c) Provides that this section does not limit the liability of a volunteer health practitioner for:

(1) wilful misconduct or wanton, grossly negligent, reckless, or criminal conduct;

(2) an intentional tort;

(3) breach of contract;

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

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

(d) Provides that a person who operates, uses, or relies on information provided by the volunteer health practitioner registration system under this chapter is not liable for damages for an act or omission relating to that operation, use, or reliance unless the act or omission is an intentional tort or is wilful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

SECTION 2. Requires a court or governmental entity, in applying and construing Chapter 115, Occupations Code, as added by this Act, to take into consideration the need to promote uniformity of the law with respect to the subject matter of this Act among states that enact similar uniform laws.

SECTION 3. Effective date: September 1, 2013.