

By: Ashby

H.B. No. 746

Substitute the following for H.B. No. 746:

By: Simmons

C.S.H.B. No. 746

A BILL TO BE ENTITLED

AN ACT

relating to the registration of volunteer health practitioners and the services of volunteer health practitioners during disasters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. HEALTH OR VETERINARY SERVICES PROVIDED IN CATASTROPHIC CIRCUMSTANCES

Sec. 115.001. SHORT TITLE. This chapter may be cited as the Uniform Emergency Volunteer Health Practitioners Act.

Sec. 115.002. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

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

(A) is designated or recognized as a provider of those services under a disaster response and recovery plan adopted by an agency of the federal government or the division; or

(B) regularly plans and conducts its activities in coordination with an agency of the federal government or the division.

(3) "Division" has the meaning assigned by Section

1 418.004, Government Code.

2 (4) "Emergency" means an event or condition that is a  
3 disaster as defined by Section 418.004, Government Code.

4 (5) "Emergency declaration" means a declaration of  
5 emergency issued by the governor or a designee of the governor.

6 (6) "Emergency Management Assistance Compact" means  
7 the interstate compact approved by Congress (Pub. L. No. 104-321)  
8 as provided by Chapter 778, Health and Safety Code.

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

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

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

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

20 (A) with respect to the physical or mental  
21 condition or functional status of an individual or the structure or  
22 function of the body:

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

25 (ii) counseling and assessment procedures  
26 or other related services;

27 (B) the sale or dispensing of a drug, a device,

1 equipment, or another item to an individual in accordance with a  
2 prescription; and

3 (C) funeral, cremation, cemetery, or other  
4 mortuary services.

5 (11) "Host entity" means an entity operating in this  
6 state that uses volunteer health practitioners to respond to an  
7 emergency.

8 (12) "License" means an authorization by a state  
9 agency to engage in health or veterinary services that are unlawful  
10 without the authorization. The term includes authorization under  
11 the laws of this state to an individual to provide health or  
12 veterinary services based on a national certification issued by a  
13 public or private entity.

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

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

25 (A) diagnosis, treatment, or prevention of an  
26 animal disease, injury, or other physical or mental condition by  
27 the prescription, administration, or dispensing of a vaccine, a

1 drug, surgery, or therapy;

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

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

7 (15) "Volunteer health practitioner" means a health  
8 practitioner who provides health or veterinary services without  
9 compensation. The term does not include a practitioner who receives  
10 compensation under a preexisting employment relationship with a  
11 host entity or affiliate that requires the practitioner to provide  
12 health services in this state, unless the practitioner is not a  
13 resident of this state and is employed by a disaster relief  
14 organization providing services in this state while an emergency  
15 declaration is in effect.

16 Sec. 115.003. APPLICABILITY TO VOLUNTEER HEALTH  
17 PRACTITIONERS. This chapter applies to volunteer health  
18 practitioners who are registered with the system administered by  
19 the department under Section 115.005 and who provide health or  
20 veterinary services in this state for a host entity while an  
21 emergency declaration is in effect.

22 Sec. 115.004. REGULATION OF SERVICES DURING EMERGENCY. (a)  
23 While an emergency declaration is in effect, the division by order  
24 may limit, restrict, or otherwise regulate:

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

27 (2) the geographical areas in which volunteer health

1 practitioners may practice;

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

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

7 (b) An order issued under Subsection (a) may take effect  
8 immediately, without prior notice or comment, and is not a rule  
9 within the meaning of Chapter 2001, Government Code.

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

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

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

18 Sec. 115.005. VOLUNTEER HEALTH PRACTITIONER REGISTRATION  
19 SYSTEM. (a) The department shall administer a volunteer health  
20 practitioner registration system that:

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

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

26 (3) is capable of confirming whether a health  
27 practitioner is licensed and in good standing before health or

1 veterinary services are provided by the practitioner under this  
2 chapter; and

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

6 (b) To satisfy a requirement of Subsection (a) or (c), the  
7 department may:

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

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

14 (c) While an emergency declaration is in effect, a state  
15 agency that grants a license to a health practitioner shall  
16 coordinate with the department to provide licensing or criminal  
17 history record information for volunteer health practitioners  
18 seeking registration under this chapter.

19 (d) If an applicant for registration under this chapter has  
20 an unacceptable licensing or criminal history, the department may  
21 not allow the applicant to register and the applicant may not serve  
22 as a volunteer health practitioner under this chapter.

23 (e) While an emergency declaration is in effect, the  
24 division, a person authorized to act on behalf of the division, or a  
25 host entity may confirm whether volunteer health practitioners used  
26 in this state are registered with the registration system under  
27 Subsection (a). Confirmation is limited to obtaining the identity

1 of the practitioners from the system and determining whether the  
2 system indicates that the practitioners are licensed and in good  
3 standing and have an acceptable criminal history.

4 (f) On request by a person in this state authorized under  
5 Subsection (e) or a similarly authorized person in another state,  
6 the department shall notify the person of the identity of volunteer  
7 health practitioners registered with the registration system and  
8 whether the practitioners are licensed and in good standing and  
9 have an acceptable criminal history.

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

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

23 (b) A volunteer health practitioner qualified under  
24 Subsection (a) is not entitled to the protections of this chapter if  
25 the practitioner is licensed in more than one state and any license  
26 of the practitioner is suspended, revoked, or subject to an agency  
27 order limiting or restricting practice privileges or has been

1 voluntarily terminated under threat of sanction.

2 Sec. 115.007. NO EFFECT ON CREDENTIALING AND PRIVILEGING.

3 (a) In this section:

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

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

13 (b) This chapter does not affect credentialing or  
14 privileging standards of a health facility and does not preclude a  
15 health facility from waiving or modifying those standards while an  
16 emergency declaration is in effect.

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

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

27 (c) The division may modify or restrict the health or



1 veterinary services that a volunteer health practitioner may  
2 provide under this chapter. An order under this subsection may take  
3 effect immediately, without prior notice or comment, and is not a  
4 rule within the meaning of Chapter 2001, Government Code.

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

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

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

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

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

1 this state:

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

5 (2) may impose administrative sanctions on a  
6 practitioner not licensed in this state for conduct in this state in  
7 response to an in-state emergency; and

8 (3) shall report any administrative sanction imposed  
9 on a practitioner licensed in another state to the appropriate  
10 licensing board or other disciplinary authority in any other state  
11 in which the practitioner is known to be licensed.

12 (g) In determining whether to impose an administrative  
13 sanction under Subsection (f), a licensing board or other  
14 disciplinary authority shall consider the circumstances in which  
15 the conduct took place, including any exigent circumstances, and  
16 the practitioner's scope of practice, education, training,  
17 experience, and specialized skill.

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

24 (b) The division, under the Emergency Management Assistance  
25 Compact, may incorporate into the emergency forces of this state  
26 volunteer health practitioners who are not officers or employees of  
27 this state or a political subdivision of this state.

1       Sec. 115.010. REGULATORY AUTHORITY. The division may adopt  
2 rules to implement this chapter. In adopting rules, the division  
3 shall consult with and consider the recommendations of the entity  
4 established to coordinate the implementation of the Emergency  
5 Management Assistance Compact and shall consult with and consider  
6 rules adopted by similarly empowered agencies in other states to  
7 promote uniformity in the application of this chapter and to make  
8 the emergency response systems in the various states reasonably  
9 compatible.

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

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

18       (c) This section does not limit the liability of a volunteer  
19 health practitioner for:

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

22               (2) an intentional tort;

23               (3) breach of contract;

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

27               (5) an act or omission relating to the operation of a

1 motor vehicle, vessel, aircraft, or other vehicle.

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

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

13 SECTION 3. This Act takes effect September 1, 2013.