

By: Ashby

H.B. No. 746

A BILL TO BE ENTITLED

AN ACT

relating to allowing health care providers to provide services across state lines in catastrophic circumstances.

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) "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.

(2) "Division" has the meaning assigned by Section 418.004, Government Code.

(3) "Emergency" means an event or condition that is a

1 disaster as defined by Section 418.004, Government Code.

2 (4) "Emergency declaration" means a declaration of  
3 emergency issued by a person authorized to do so under the laws of  
4 this state, a political subdivision of this state, or a  
5 municipality or other local government within this state.

6 (5) "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 (6) "Entity" means a person other than an individual.

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

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

16 (9) "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 (10) "Host entity" means an entity operating in this  
6 state that uses volunteer health practitioners to respond to an  
7 emergency.

8 (11) "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 (12) "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 (13) "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 (14) "Volunteer health practitioner" means a health  
8 practitioner who provides health or veterinary services,  
9 regardless of whether for compensation. The term does not include a  
10 practitioner who receives compensation under a preexisting  
11 employment relationship with a host entity or affiliate that  
12 requires the practitioner to provide health services in this state,  
13 unless the practitioner is not a resident of this state and is  
14 employed by a disaster relief organization providing services in  
15 this state while an emergency 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 a system that complies with  
19 Section 115.005 and who provide health or veterinary services in  
20 this state for a host entity while an emergency declaration is in  
21 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 SYSTEMS. (a) To qualify as a volunteer health practitioner  
20 registration system, a system must:

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

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

26 (3) be 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) meet one of the following conditions:

4 (A) be an emergency system for advance  
5 registration of volunteer health care practitioners established by  
6 a state and funded through the United States Department of Health  
7 and Human Services under Section 319I, Public Health Service Act  
8 (42 U.S.C. Section 247d-7b);

9 (B) be a local unit consisting of trained and  
10 equipped emergency response, public health, and medical personnel  
11 formed under Section 2801, Public Health Service Act (42 U.S.C.  
12 Section 300hh);

13 (C) be operated by a:

14 (i) disaster relief organization;

15 (ii) licensing board;

16 (iii) national or regional association of  
17 licensing boards or health practitioners;

18 (iv) health facility that provides  
19 comprehensive inpatient and outpatient health care services,  
20 including a tertiary care and teaching hospital; or

21 (v) governmental entity; or

22 (D) be designated by the division as a  
23 registration system for purposes of this chapter.

24 (b) While an emergency declaration is in effect, the  
25 division, a person authorized to act on behalf of the division, or a  
26 host entity may confirm whether volunteer health practitioners used  
27 in this state are registered with a registration system that

1 complies with Subsection (a). Confirmation is limited to obtaining  
2 the identity of the practitioners from the system and determining  
3 whether the system indicates that the practitioners are licensed  
4 and in good standing.

5 (c) On request by a person in this state authorized under  
6 Subsection (b) or a similarly authorized person in another state, a  
7 registration system located in this state shall notify the person  
8 of the identity of volunteer health practitioners and whether the  
9 practitioners are licensed and in good standing.

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

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

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

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

1 (a) In this section:

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

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

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

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

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

25 (c) The division may modify or restrict the health or  
26 veterinary services that a volunteer health practitioner may  
27 provide under this chapter. An order under this subsection may take



1 effect immediately, without prior notice or comment, and is not a  
2 rule within the meaning of Chapter 2001, Government Code.

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

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

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

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

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

27 (1) may impose administrative sanctions on a health

1 practitioner licensed in this state for conduct outside of this  
2 state in response to an out-of-state emergency;

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

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

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

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

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

26 Sec. 115.010. REGULATORY AUTHORITY. The division may adopt  
27 rules to implement this chapter. In adopting rules, the division

1 shall consult with and consider the recommendations of the entity  
2 established to coordinate the implementation of the Emergency  
3 Management Assistance Compact and shall consult with and consider  
4 rules adopted by similarly empowered agencies in other states to  
5 promote uniformity in the application of this chapter and to make  
6 the emergency response systems in the various states reasonably  
7 compatible.

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

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

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

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

20 (2) an intentional tort;

21 (3) breach of contract;

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

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

27 (d) A person who operates, uses, or relies on information

1 provided by a volunteer health practitioner registration system  
2 under this chapter is not liable for damages for an act or omission  
3 relating to that operation, use, or reliance unless the act or  
4 omission is an intentional tort or is wilful misconduct or wanton,  
5 grossly negligent, reckless, or criminal conduct.

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

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