

1-1 By: Ashby (Senate Sponsor - Schwertner) H.B. No. 746
 1-2 (In the Senate - Received from the House May 6, 2013;
 1-3 May 7, 2013, read first time and referred to Committee on Health
 1-4 and Human Services; May 15, 2013, reported favorably by the
 1-5 following vote: Yeas 8, Nays 0; May 15, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the registration of volunteer health practitioners and
 1-20 the services of volunteer health practitioners during disasters.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle A, Title 3, Occupations Code, is
 1-23 amended by adding Chapter 115 to read as follows:

1-24 CHAPTER 115. HEALTH OR VETERINARY SERVICES PROVIDED IN
 1-25 CATASTROPHIC CIRCUMSTANCES

1-26 Sec. 115.001. SHORT TITLE. This chapter may be cited as the
 1-27 Uniform Emergency Volunteer Health Practitioners Act.

1-28 Sec. 115.002. DEFINITIONS. In this chapter:

1-29 (1) "Department" means the Department of State Health
 1-30 Services.

1-31 (2) "Disaster relief organization" means an entity
 1-32 that provides emergency or disaster relief services that include
 1-33 health or veterinary services provided by volunteer health
 1-34 practitioners and that:

1-35 (A) is designated or recognized as a provider of
 1-36 those services under a disaster response and recovery plan adopted
 1-37 by an agency of the federal government or the division; or

1-38 (B) regularly plans and conducts its activities
 1-39 in coordination with an agency of the federal government or the
 1-40 division.

1-41 (3) "Division" has the meaning assigned by Section
 1-42 418.004, Government Code.

1-43 (4) "Emergency" means an event or condition that is a
 1-44 disaster as defined by Section 418.004, Government Code.

1-45 (5) "Emergency declaration" means a declaration of
 1-46 emergency issued by the governor or a designee of the governor.

1-47 (6) "Emergency Management Assistance Compact" means
 1-48 the interstate compact approved by Congress (Pub. L. No. 104-321)
 1-49 as provided by Chapter 778, Health and Safety Code.

1-50 (7) "Entity" means a person other than an individual.

1-51 (8) "Health facility" means an entity licensed under
 1-52 the laws of this or another state to provide health or veterinary
 1-53 services.

1-54 (9) "Health practitioner" means an individual
 1-55 licensed under the laws of this or another state to provide health
 1-56 or veterinary services.

1-57 (10) "Health services" means the provision of
 1-58 treatment, care, advice or guidance, or other services or supplies
 1-59 related to the health or death of individuals or human populations,
 1-60 to the extent necessary to respond to an emergency, including:

1-61 (A) with respect to the physical or mental

2-1 condition or functional status of an individual or the structure or
2-2 function of the body:
2-3 (i) preventive, diagnostic, therapeutic,
2-4 rehabilitative, maintenance, or palliative care; and
2-5 (ii) counseling and assessment procedures
2-6 or other related services;
2-7 (B) the sale or dispensing of a drug, a device,
2-8 equipment, or another item to an individual in accordance with a
2-9 prescription; and
2-10 (C) funeral, cremation, cemetery, or other
2-11 mortuary services.
2-12 (11) "Host entity" means an entity operating in this
2-13 state that uses volunteer health practitioners to respond to an
2-14 emergency.
2-15 (12) "License" means an authorization by a state
2-16 agency to engage in health or veterinary services that are unlawful
2-17 without the authorization. The term includes authorization under
2-18 the laws of this state to an individual to provide health or
2-19 veterinary services based on a national certification issued by a
2-20 public or private entity.
2-21 (13) "Scope of practice" means the extent of the
2-22 authorization to provide health or veterinary services granted to a
2-23 health practitioner by a license issued to the practitioner in the
2-24 state in which the principal part of the practitioner's services
2-25 are rendered, including any conditions imposed by the licensing
2-26 authority.
2-27 (14) "Veterinary services" means the provision of
2-28 treatment, care, advice or guidance, or other services or supplies
2-29 related to the health or death of an animal or to animal
2-30 populations, to the extent necessary to respond to an emergency,
2-31 including:
2-32 (A) diagnosis, treatment, or prevention of an
2-33 animal disease, injury, or other physical or mental condition by
2-34 the prescription, administration, or dispensing of a vaccine, a
2-35 drug, surgery, or therapy;
2-36 (B) use of a procedure for reproductive
2-37 management; and
2-38 (C) monitoring and treatment of animal
2-39 populations for diseases that have spread or demonstrate the
2-40 potential to spread to humans.
2-41 (15) "Volunteer health practitioner" means a health
2-42 practitioner who provides health or veterinary services without
2-43 compensation. The term does not include a practitioner who receives
2-44 compensation under a preexisting employment relationship with a
2-45 host entity or affiliate that requires the practitioner to provide
2-46 health services in this state, unless the practitioner is not a
2-47 resident of this state and is employed by a disaster relief
2-48 organization providing services in this state while an emergency
2-49 declaration is in effect.
2-50 Sec. 115.003. APPLICABILITY TO VOLUNTEER HEALTH
2-51 PRACTITIONERS. This chapter applies to volunteer health
2-52 practitioners who are registered with the system administered by
2-53 the department under Section 115.005 and who provide health or
2-54 veterinary services in this state for a host entity while an
2-55 emergency declaration is in effect.
2-56 Sec. 115.004. REGULATION OF SERVICES DURING EMERGENCY. (a)
2-57 While an emergency declaration is in effect, the division by order
2-58 may limit, restrict, or otherwise regulate:
2-59 (1) the duration of practice by volunteer health
2-60 practitioners;
2-61 (2) the geographical areas in which volunteer health
2-62 practitioners may practice;
2-63 (3) the types of volunteer health practitioners who
2-64 may practice; and
2-65 (4) any other matters necessary to coordinate
2-66 effectively the provision of health or veterinary services during
2-67 the emergency.
2-68 (b) An order issued under Subsection (a) may take effect
2-69 immediately, without prior notice or comment, and is not a rule

3-1 within the meaning of Chapter 2001, Government Code.

3-2 (c) A host entity that uses volunteer health practitioners
3-3 to provide health or veterinary services in this state shall;

3-4 (1) consult and coordinate its activities with the
3-5 division to the extent practicable to provide for the efficient and
3-6 effective use of volunteer health practitioners; and

3-7 (2) comply with laws in addition to this chapter
3-8 relating to the management of emergency health or veterinary
3-9 services.

3-10 Sec. 115.005. VOLUNTEER HEALTH PRACTITIONER REGISTRATION
3-11 SYSTEM. (a) The department shall administer a volunteer health
3-12 practitioner registration system that:

3-13 (1) accepts applications for the registration of
3-14 volunteer health practitioners before or during an emergency;

3-15 (2) includes information about the licensing and good
3-16 standing of health practitioners that is accessible by authorized
3-17 persons;

3-18 (3) is capable of confirming whether a health
3-19 practitioner is licensed and in good standing before health or
3-20 veterinary services are provided by the practitioner under this
3-21 chapter; and

3-22 (4) includes information regarding the results of a
3-23 criminal history record information check performed on the
3-24 volunteer health practitioners listed in the system.

3-25 (b) To satisfy a requirement of Subsection (a) or (c), the
3-26 department may:

3-27 (1) use information available in the Texas disaster
3-28 volunteer registry maintained by the department; or

3-29 (2) enter into agreements with disaster relief
3-30 organizations or the verification systems of other states for the
3-31 advance registration of volunteer health practitioners under 42
3-32 U.S.C. Section 247d-7b.

3-33 (c) While an emergency declaration is in effect, a state
3-34 agency that grants a license to a health practitioner shall
3-35 coordinate with the department to provide licensing or criminal
3-36 history record information for volunteer health practitioners
3-37 seeking registration under this chapter.

3-38 (d) If an applicant for registration under this chapter has
3-39 an unacceptable licensing or criminal history, the department may
3-40 not allow the applicant to register and the applicant may not serve
3-41 as a volunteer health practitioner under this chapter.

3-42 (e) While an emergency declaration is in effect, the
3-43 division, a person authorized to act on behalf of the division, or a
3-44 host entity may confirm whether volunteer health practitioners used
3-45 in this state are registered with the registration system under
3-46 Subsection (a). Confirmation is limited to obtaining the identity
3-47 of the practitioners from the system and determining whether the
3-48 system indicates that the practitioners are licensed and in good
3-49 standing and have an acceptable criminal history.

3-50 (f) On request by a person in this state authorized under
3-51 Subsection (e) or a similarly authorized person in another state,
3-52 the department shall notify the person of the identity of volunteer
3-53 health practitioners registered with the registration system and
3-54 whether the practitioners are licensed and in good standing and
3-55 have an acceptable criminal history.

3-56 (g) A host entity is not required to use the services of a
3-57 volunteer health practitioner even if the practitioner is
3-58 registered with the registration system and the system indicates
3-59 that the practitioner is licensed and in good standing and has an
3-60 acceptable criminal history.

3-61 Sec. 115.006. RECOGNITION OF VOLUNTEER HEALTH
3-62 PRACTITIONERS LICENSED IN OTHER STATES. (a) While an emergency
3-63 declaration is in effect, a volunteer health practitioner
3-64 registered with the registration system under Section 115.005 who
3-65 is licensed and in good standing in another state and has an
3-66 acceptable criminal history may practice in this state to the
3-67 extent authorized by this chapter as if the practitioner were
3-68 licensed in this state.

3-69 (b) A volunteer health practitioner qualified under

4-1 Subsection (a) is not entitled to the protections of this chapter if
 4-2 the practitioner is licensed in more than one state and any license
 4-3 of the practitioner is suspended, revoked, or subject to an agency
 4-4 order limiting or restricting practice privileges or has been
 4-5 voluntarily terminated under threat of sanction.

4-6 Sec. 115.007. NO EFFECT ON CREDENTIALING AND PRIVILEGING.

4-7 (a) In this section:

4-8 (1) "Credentialing" means obtaining, verifying, and
 4-9 assessing the qualifications of a health practitioner to provide
 4-10 treatment, care, or services in or for a health facility.

4-11 (2) "Privileging" means the authorizing by an
 4-12 appropriate authority, such as a governing body, of a health
 4-13 practitioner to provide specific treatment, care, or services at a
 4-14 health facility subject to limits based on factors that include
 4-15 license, education, training, experience, competence, health
 4-16 status, and specialized skill.

4-17 (b) This chapter does not affect credentialing or
 4-18 privileging standards of a health facility and does not preclude a
 4-19 health facility from waiving or modifying those standards while an
 4-20 emergency declaration is in effect.

4-21 Sec. 115.008. PROVISION OF VOLUNTEER HEALTH OR VETERINARY
 4-22 SERVICES; ADMINISTRATIVE SANCTIONS. (a) Subject to Subsections (b)
 4-23 and (c), a volunteer health practitioner shall adhere to the scope
 4-24 of practice for a similarly licensed practitioner established by
 4-25 the licensing provisions or other laws of this state.

4-26 (b) Except as otherwise provided by Subsection (c), this
 4-27 chapter does not authorize a volunteer health practitioner to
 4-28 provide a service that is outside the practitioner's scope of
 4-29 practice, even if a similarly licensed practitioner in this state
 4-30 would be permitted to provide the service.

4-31 (c) The division may modify or restrict the health or
 4-32 veterinary services that a volunteer health practitioner may
 4-33 provide under this chapter. An order under this subsection may take
 4-34 effect immediately, without prior notice or comment, and is not a
 4-35 rule within the meaning of Chapter 2001, Government Code.

4-36 (d) A host entity may restrict the health or veterinary
 4-37 services that a volunteer health practitioner may provide under
 4-38 this chapter.

4-39 (e) A volunteer health practitioner does not engage in
 4-40 unauthorized practice unless the practitioner has reason to know of
 4-41 any limitation, modification, or restriction under this section or
 4-42 that a similarly licensed practitioner in this state would not be
 4-43 permitted to provide the service. A volunteer health practitioner
 4-44 has reason to know of a limitation, modification, or restriction or
 4-45 that a similarly licensed practitioner in this state would not be
 4-46 permitted to provide a service if:

4-47 (1) the practitioner knows the limitation,
 4-48 modification, or restriction exists or that a similarly licensed
 4-49 practitioner in this state would not be permitted to provide the
 4-50 service; or

4-51 (2) from all the facts and circumstances known to the
 4-52 practitioner at the relevant time, a reasonable person would
 4-53 conclude that the limitation, modification, or restriction exists
 4-54 or that a similarly licensed practitioner in this state would not be
 4-55 permitted to provide the service.

4-56 (f) In addition to the authority granted by the law of this
 4-57 state other than this chapter to regulate the conduct of health
 4-58 practitioners, a licensing board or other disciplinary authority in
 4-59 this state:

4-60 (1) may impose administrative sanctions on a health
 4-61 practitioner licensed in this state for conduct outside of this
 4-62 state in response to an out-of-state emergency;

4-63 (2) may impose administrative sanctions on a
 4-64 practitioner not licensed in this state for conduct in this state in
 4-65 response to an in-state emergency; and

4-66 (3) shall report any administrative sanction imposed
 4-67 on a practitioner licensed in another state to the appropriate
 4-68 licensing board or other disciplinary authority in any other state
 4-69 in which the practitioner is known to be licensed.

5-1 (g) In determining whether to impose an administrative
5-2 sanction under Subsection (f), a licensing board or other
5-3 disciplinary authority shall consider the circumstances in which
5-4 the conduct took place, including any exigent circumstances, and
5-5 the practitioner's scope of practice, education, training,
5-6 experience, and specialized skill.

5-7 Sec. 115.009. RELATION TO OTHER LAWS. (a) This chapter does
5-8 not limit rights, privileges, or immunities provided to volunteer
5-9 health practitioners by laws other than this chapter. Except as
5-10 otherwise provided by Subsection (b), this chapter does not affect
5-11 requirements for the use of health practitioners under the
5-12 Emergency Management Assistance Compact.

5-13 (b) The division, under the Emergency Management Assistance
5-14 Compact, may incorporate into the emergency forces of this state
5-15 volunteer health practitioners who are not officers or employees of
5-16 this state or a political subdivision of this state.

5-17 Sec. 115.010. REGULATORY AUTHORITY. The division may adopt
5-18 rules to implement this chapter. In adopting rules, the division
5-19 shall consult with and consider the recommendations of the entity
5-20 established to coordinate the implementation of the Emergency
5-21 Management Assistance Compact and shall consult with and consider
5-22 rules adopted by similarly empowered agencies in other states to
5-23 promote uniformity in the application of this chapter and to make
5-24 the emergency response systems in the various states reasonably
5-25 compatible.

5-26 Sec. 115.011. LIMITATIONS ON CIVIL LIABILITY FOR VOLUNTEER
5-27 HEALTH PRACTITIONERS. (a) Subject to Subsection (c), a volunteer
5-28 health practitioner who provides health or veterinary services
5-29 under this chapter is not liable for damages for an act or omission
5-30 of the practitioner in providing those services.

5-31 (b) A person is not vicariously liable for damages for an
5-32 act or omission of a volunteer health practitioner if the
5-33 practitioner is not liable for the damages under Subsection (a).

5-34 (c) This section does not limit the liability of a volunteer
5-35 health practitioner for:

5-36 (1) wilful misconduct or wanton, grossly negligent,
5-37 reckless, or criminal conduct;

5-38 (2) an intentional tort;

5-39 (3) breach of contract;

5-40 (4) a claim asserted by a host entity or by an entity
5-41 located in this or another state that employs or uses the services
5-42 of the practitioner; or

5-43 (5) an act or omission relating to the operation of a
5-44 motor vehicle, vessel, aircraft, or other vehicle.

5-45 (d) A person who operates, uses, or relies on information
5-46 provided by the volunteer health practitioner registration system
5-47 under this chapter is not liable for damages for an act or omission
5-48 relating to that operation, use, or reliance unless the act or
5-49 omission is an intentional tort or is wilful misconduct or wanton,
5-50 grossly negligent, reckless, or criminal conduct.

5-51 SECTION 2. In applying and construing Chapter 115,
5-52 Occupations Code, as added by this Act, a court or governmental
5-53 entity shall take into consideration the need to promote uniformity
5-54 of the law with respect to the subject matter of this Act among
5-55 states that enact similar uniform laws.

5-56 SECTION 3. This Act takes effect September 1, 2013.

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