

STATE OF NEW YORK

8564

IN SENATE

June 16, 2020

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to enacting the "uniform emergency volunteer health practitioners act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "uniform
2 emergency volunteer health practitioners act".

3 § 2. Legislative findings. The legislature finds that in times of
4 emergencies that it may be necessary to rapidly deploy health service
5 workers from out-of-state. For such necessities, it is beneficial to
6 have a registry and uniform system of rules to deploy the relevant work-
7 ers with minimal complications. Accordingly, this legislature adopts the
8 "uniform emergency volunteer health practitioners act" in New York.

9 § 3. The public health law is amended by adding a new article 30-E to
10 read as follows:

ARTICLE 30-E

UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT

Section 3083. Definitions.

14 3084. Applicability to volunteer health practitioners.

15 3085. Regulation of services during emergency.

16 3086. Volunteer health practitioner registration systems.

17 3087. Recognition of volunteer health practitioners licensed in
18 other states.

19 3088. No effect on credentialing and privileging.

20 3089. Provision of volunteer health or veterinary services;
21 administrative sanctions.

22 3090. Relation to other laws.

23 3091. Regulatory authority.

24 3092. Limitations on civil liability for volunteer health prac-
25 tioners; vicarious liability.

26 3093. Workers' compensation coverage.

27 3094. Uniformity of application and construction.

28 § 3083. Definitions. As used in in this article:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 1. "Credentialing" means obtaining, verifying, and assessing the qual-
2 ifications of a health practitioner to provide treatment, care, or
3 services in or for a health facility.

4 2. "Disaster relief organization" means an entity that provides emer-
5 gency or disaster relief services that include health or veterinary
6 services provided by volunteer health practitioners and that:

7 (a) is designated or recognized as a provider of those services pursu-
8 ant to a disaster response and recovery plan adopted by an agency of the
9 federal government, or New York state division of homeland security and
10 emergency services, or of the state disaster preparedness commission
11 empowered by section twenty-one of the executive law; or

12 (b) regularly plans and conducts its activities in coordination with
13 an agency of the federal government or the New York state division of
14 homeland security and emergency services.

15 3. "Emergency" means an event or condition that is an emergency,
16 disaster, or public health emergency defined as a disaster under article
17 two-B of the executive law.

18 4. "Emergency declaration" means a declaration of emergency issued by
19 a person authorized to do so under the laws of this state, including as
20 defined in section twenty-eight of the executive law, a political subdi-
21 vision of this state, or a municipality or other local government within
22 this state.

23 5. "Emergency management assistance compact" means the interstate
24 compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877
25 and codified in New York as section twenty-nine-g of the executive law.

26 6. "Entity" means a person other than an individual.

27 7. "Health facility" means an entity licensed under the laws of this
28 or another state to provide health or veterinary services.

29 8. "Health practitioner" means an individual licensed under the laws
30 of this or another state to provide health or veterinary services.

31 9. "Health services" means the provision of treatment, care, advice or
32 guidance, or other services, or supplies, related to the health or death
33 of individuals or human populations, to the extent necessary to respond
34 to an emergency, including:

35 (a) the following, concerning the physical or mental condition or
36 functional status of an individual or affecting the structure or func-
37 tion of the body:

38 (i) preventive, diagnostic, therapeutic, rehabilitative, maintenance,
39 or palliative care; and

40 (ii) counseling, assessment, procedures, or other services;

41 (b) sale or dispensing of a drug, a device, equipment, or another item
42 to an individual in accordance with a prescription; and

43 (c) funeral, cremation, cemetery, or other mortuary services.

44 10. "Host entity" means an entity operating in this state which uses
45 volunteer health practitioners to respond to an emergency.

46 11. "License" means authorization by a state to engage in health or
47 veterinary services that are unlawful without the authorization. The
48 term includes authorization under the laws of this state to an individ-
49 ual to provide health or veterinary services based upon a national
50 certification issued by a public or private entity.

51 12. "Person" means an individual, corporation, business trust, trust,
52 partnership, limited liability company, association, joint venture,
53 public corporation, government or governmental subdivision, agency, or
54 instrumentality, or any other legal or commercial entity.

55 13. "Privileging" means the authorizing by an appropriate authority,
56 such as a governing body, of a health practitioner to provide specific

1 treatment, care, or services at a health facility subject to limits
2 based on factors that include license, education, training, experience,
3 competence, health status, and specialized skill.

4 14. "Scope of practice" means the extent of the authorization to
5 provide health or veterinary services granted to a health practitioner
6 by a license issued to the practitioner in the state in which the prin-
7 cipal part of the practitioner's services are rendered, including any
8 conditions imposed by the licensing authority.

9 15. "State" means a state of the United States, the District of Colum-
10 bia, Puerto Rico, the United States Virgin Islands, or any territory or
11 insular possession subject to the jurisdiction of the United States.

12 16. "Veterinary services" means the provision of treatment, care,
13 advice or guidance, or other services, or supplies, related to the
14 health or death of an animal or to animal populations, to the extent
15 necessary to respond to an emergency, including:

16 (a) diagnosis, treatment, or prevention of an animal disease, injury,
17 or other physical or mental condition by the prescription, adminis-
18 tration, or dispensing of vaccine, medicine, surgery, or therapy;

19 (b) use of a procedure for reproductive management; and

20 (c) monitoring and treatment of animal populations for diseases that
21 have spread or demonstrate the potential to spread to humans.

22 17. "Volunteer health practitioner" means a health practitioner who
23 provides health or veterinary services, whether or not the practitioner
24 receives compensation for those services. The term does not include a
25 practitioner who receives compensation pursuant to a preexisting employ-
26 ment relationship with a host entity or affiliate which requires the
27 practitioner to provide health services in this state, unless the prac-
28 titioner is not a resident of this state and is employed by a disaster
29 relief organization providing services in this state while an emergency
30 declaration is in effect.

31 § 3084. Applicability to volunteer health practitioners. This article
32 shall apply to volunteer health practitioners registered with a regis-
33 tration system that complies with section three thousand eighty-six of
34 this article and who provides health or veterinary services in this
35 state for a host entity while an emergency declaration is in effect.

36 § 3085. Regulation of services during emergency. 1. While an emergency
37 declaration is in effect, the New York state division of homeland secu-
38 rity and emergency services may limit, restrict, or otherwise regulate:

39 (a) the duration of practice by volunteer health practitioners;

40 (b) the geographical areas in which volunteer health practitioners may
41 practice;

42 (c) the types of volunteer health practitioners who may practice; and

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

45 2. An order issued pursuant to subdivision one of this section may
46 take effect immediately, without prior notice or comment, and is not a
47 rule within the meaning of the state administrative procedure act.

48 3. A host entity that uses volunteer health practitioners to provide
49 health or veterinary services in this state shall:

50 (a) consult and coordinate its activities with the New York state
51 division of homeland security and emergency services to the extent prac-
52 ticable to provide for the efficient and effective use of volunteer
53 health practitioners; and

54 (b) comply with any other laws relating to the management of emergency
55 health or veterinary services, including under article two-B of the
56 executive law.

1 § 3086. Volunteer health practitioner registration systems. 1. To
2 qualify as a volunteer health practitioner registration system, a system
3 shall:

4 (a) accept applications for the registration of volunteer health prac-
5 tititioners before or during an emergency;

6 (b) include information about the licensure and good standing of
7 health practitioners which is accessible by authorized persons;

8 (c) be capable of confirming the accuracy of information concerning
9 whether a health practitioner is licensed and in good standing before
10 health services or veterinary services are provided under this article;
11 and

12 (d) meet one of the following conditions:

13 (i) be an emergency system for advance registration of volunteer
14 healthcare practitioners established by a state and funded through the
15 department of health and human services under Section 319 of the Public
16 Health Services Act, 42 USC Section 247d-7b, as amended;

17 (ii) be a local unit consisting of trained and equipped emergency
18 response, public health, and medical personnel formed pursuant to
19 Section 2801 of the Public Health Services Act, 42 U.S.C. Section 300hh,
20 as amended;

21 (iii) be operated by a:

22 (A) disaster relief organization;

23 (B) licensing board;

24 (C) national or regional association of licensing boards or health
25 practitioners;

26 (D) health facility that provides comprehensive inpatient and outpa-
27 tient health-care services, including a tertiary care and teaching
28 hospital; or

29 (E) governmental entity; or

30 (iv) be designated by New York state division of homeland security and
31 emergency services as a registration system for purposes of this arti-
32 cle.

33 2. While an emergency declaration is in effect, New York state divi-
34 sion of homeland security and emergency services, a person authorized to
35 act on behalf of New York state division of homeland security and emer-
36 gency services, or a host entity, may confirm whether volunteer health
37 practitioners utilized in this state are registered with a registration
38 system that complies with subdivision one of this section. Confirmation
39 shall be limited to obtaining identities of the practitioners from the
40 system and determining whether the system indicates that the practition-
41 ers are licensed and in good standing.

42 3. Upon request of a person in this state authorized under subdivision
43 two of this section, or a similarly authorized person in another state,
44 a registration system located in this state shall notify the person of
45 the identities of volunteer health practitioners and whether the practi-
46 tioners are licensed and in good standing.

47 4. A host entity shall not be required to use the services of a volun-
48 teer health practitioner even if the practitioner is registered with a
49 registration system that indicates that the practitioner is licensed and
50 in good standing.

51 § 3087. Recognition of volunteer health practitioners licensed in
52 other states. 1. While a state disaster emergency declaration is in
53 effect, a volunteer health practitioner, registered with a registration
54 system that complies with section three thousand eighty-six of this
55 article and licensed and in good standing in the state upon which the
56 practitioner's registration is based, may practice in this state to the

1 extent authorized by this article as if the practitioner were licensed
2 in this state.

3 2. A volunteer health practitioner qualified under subdivision one of
4 this section is not entitled to the protections of this article if the
5 practitioner is licensed in more than one state and any license of the
6 practitioner is suspended, revoked, or subject to an agency order limit-
7 ing or restricting practice privileges, or has been voluntarily termi-
8 nated under threat of sanction.

9 § 3088. No effect on credentialing and privileging. This article shall
10 not affect credentialing or privileging standards of a health facility
11 and does not preclude a health facility from waiving or modifying those
12 standards while an emergency declaration is in effect.

13 § 3089. Provision of volunteer health or veterinary services; adminis-
14 trative sanctions. 1. Subject to subdivisions two and three of this
15 section, a volunteer health practitioner shall adhere to the scope of
16 practice for a similarly licensed practitioner established by the
17 licensing provisions, practice acts, or other laws of this state.

18 2. Except as otherwise provided in subdivision three, this article
19 shall not authorize a volunteer health practitioner to provide services
20 that are outside the practitioner's scope of practice, even if a simi-
21 larly licensed practitioner in this state would be permitted to provide
22 the services.

23 3. The New York state division of homeland security and emergency
24 services may modify or restrict the health or veterinary services that
25 volunteer health practitioners may provide pursuant to this article. An
26 order under this subdivision may take effect immediately, without prior
27 notice or comment, and is not a rule within the meaning of the state
28 administrative procedure act.

29 4. A host entity may restrict the health or veterinary services that a
30 volunteer health practitioner may provide pursuant to this article.

31 5. A volunteer health practitioner does not engage in unauthorized
32 practice unless the practitioner has reason to know of any limitation,
33 modification, or restriction under this section or that a similarly
34 licensed practitioner in this state would not be permitted to provide
35 the services. A volunteer health practitioner has reason to know of a
36 limitation, modification, or restriction or that a similarly licensed
37 practitioner in this state would not be permitted to provide a service
38 if:

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

42 (b) from all the facts and circumstances known to the practitioner at
43 the relevant time, a reasonable person would conclude that the limita-
44 tion, modification, or restriction exists or that a similarly licensed
45 practitioner in this state would not be permitted to provide the
46 service.

47 6. In addition to the authority granted by any other law of this state
48 to regulate the conduct of health practitioners, a licensing board or
49 other disciplinary authority in this state:

50 (a) may impose administrative sanctions upon a health practitioner
51 licensed in this state for conduct outside of this state in response to
52 an out-of-state emergency;

53 (b) may impose administrative sanctions upon a practitioner not
54 licensed in this state for conduct in this state in response to an
55 in-state emergency; and

1 (c) shall report any administrative sanctions imposed upon a practi-
2 tioner licensed in another state to the appropriate licensing board or
3 other disciplinary authority in any other state in which the practition-
4 er is known to be licensed.

5 7. In determining whether to impose administrative sanctions under
6 subdivision six of this section, a licensing board or other disciplinary
7 authority shall consider the circumstances in which the conduct took
8 place, including any exigent circumstances, and the practitioner's scope
9 of practice, education, training, experience, and specialized skill.

10 § 3090. Relation to other laws. 1. This article shall not limit
11 rights, privileges, or immunities provided to volunteer health practi-
12 tioners by any other law. Except as otherwise provided in subdivision
13 two of this section, this article shall not affect requirements for the
14 use of health practitioners pursuant to the emergency management assist-
15 ance compact.

16 2. The New York state division of homeland security and emergency
17 services, pursuant to the emergency management assistance compact, may
18 incorporate into the emergency forces of this state volunteer health
19 practitioners who are not officers or employees of this state, a poli-
20 tical subdivision of this state, or a municipality or other local
21 government within this state.

22 § 3091. Regulatory authority. The New York state division of homeland
23 security and emergency services may promulgate rules to implement this
24 article. In doing so, the New York state division of homeland security
25 and emergency services shall consult with and consider the recommenda-
26 tions of the entity established to coordinate the implementation of the
27 emergency management assistance compact and shall also consult with and
28 consider rules promulgated by similarly empowered agencies in other
29 states to promote uniformity of application of this article and make the
30 emergency response systems in the various states reasonably compatible.

31 § 3092. Limitations on civil liability for volunteer health practi-
32 tioners; vicarious liability. 1. Subject to subdivision two of this
33 section, a volunteer health practitioner who receives compensation for
34 five hundred dollars or less per year for providing health or veterinary
35 services pursuant to this article is not liable for damages for an act
36 or omission of the practitioner in providing those services. Reimburse-
37 ment of, or allowance for, reasonable expenses, or continuation of sala-
38 ry or other remuneration while on leave, is not compensation under this
39 subdivision.

40 2. This section shall not limit the liability of a volunteer health
41 practitioner for:

42 (a) willful misconduct or wanton, grossly negligent, reckless, or
43 criminal conduct;

44 (b) an intentional tort;

45 (c) breach of contract;

46 (d) a claim asserted by a host entity or by an entity located in this
47 or another state which employs or uses the services of the practitioner;
48 or

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

51 3. A person that, pursuant to this article, operates, uses, or relies
52 upon information provided by a volunteer health practitioner registra-
53 tion system is not liable for damages for an act or omission relating to
54 that operation, use, or reliance unless the act or omission is an inten-
55 tional tort or is willful misconduct or wanton, grossly negligent, reck-
56 less, or criminal conduct.

1 4. In addition to the protections provided in subdivision one of this
2 section, a volunteer health practitioner who provides health or veteri-
3 nary services pursuant to this article is entitled to all the rights,
4 privileges, or immunities provided by section twenty-nine-g of the exec-
5 utive law.

6 § 3093. Workers' compensation coverage. 1. In this section, "injury"
7 means a physical or mental injury or disease for which an employee of
8 this state who is injured or contracts a disease in the course of the
9 employee's employment would be entitled to benefits under the workers'
10 compensation law.

11 2. A volunteer health practitioner who dies or is injured as the
12 result of providing health or veterinary services pursuant to this arti-
13 cle shall be deemed to be an employee of this state for the purpose of
14 receiving benefits for the death or injury under the workers' compen-
15 sation law if:

16 (a) the practitioner is not otherwise eligible for such benefits for
17 the injury or death under the law of this or another state; and

18 (b) the practitioner, or in the case of death, the practitioner's
19 personal representative, elects coverage under the workers' compensation
20 law by making a claim under such law.

21 3. The New York state division of homeland security and emergency
22 services shall adopt rules, enter into agreements with other states, or
23 take other measures to facilitate the receipt of benefits for injury or
24 death under the workers' compensation law by volunteer health practi-
25 tioners who reside in other states, and may waive or modify requirements
26 for filing, processing, and paying claims that unreasonably burden the
27 practitioners. To promote uniformity of application of this article with
28 other states that enact similar legislation, the New York state division
29 of homeland security and emergency services shall consult with and
30 consider the practices for filing, processing, and paying claims by
31 agencies with similar authority in other states.

32 § 3094. Uniformity of application and construction. In applying and
33 construing this article, consideration shall be given to the need to
34 promote uniformity of the law with respect to its subject matter among
35 states that enact it.

36 § 4. This act shall take effect immediately.