

STATE OF NEW YORK

5972

2021-2022 Regular Sessions

IN SENATE

March 24, 2021

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

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 titioners; vicarious liability.

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

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3093. Workers' compensation coverage.

3094. Uniformity of application and construction.

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

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

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 pursuant to a disaster response and recovery plan adopted by an agency of the federal government, or New York state division of homeland security and emergency services, or of the state disaster preparedness commission empowered by section twenty-one of the executive law; or

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

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

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

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

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

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

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

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

(a) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

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

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

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

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

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

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

12. "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture,

1 public corporation, government or governmental subdivision, agency, or
2 instrumentality, or any other legal or commercial entity.

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

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

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

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

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

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

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

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

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

40 § 3085. Regulation of services during emergency. 1. While an emergency
41 declaration is in effect, the New York state division of homeland secu-
42 rity and emergency services may limit, restrict, or otherwise regulate:

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

44 (b) the geographical areas in which volunteer health practitioners may
45 practice;

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

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

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

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

54 (a) consult and coordinate its activities with the New York state
55 division of homeland security and emergency services to the extent prac-

1 licable to provide for the efficient and effective use of volunteer
2 health practitioners; and

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

6 § 3086. Volunteer health practitioner registration systems. 1. To
7 qualify as a volunteer health practitioner registration system, a system
8 shall:

9 (a) accept applications for the registration of volunteer health prac-
10 tioners before or during an emergency;

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

13 (c) be capable of confirming the accuracy of information concerning
14 whether a health practitioner is licensed and in good standing before
15 health services or veterinary services are provided under this article;
16 and

17 (d) meet one of the following conditions:

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

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

26 (iii) be operated by a:

27 (A) disaster relief organization;

28 (B) licensing board;

29 (C) national or regional association of licensing boards or health
30 practitioners;

31 (D) health facility that provides comprehensive inpatient and outpa-
32 tient health-care services, including a tertiary care and teaching
33 hospital; or

34 (E) governmental entity; or

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

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

47 3. Upon request of a person in this state authorized under subdivision
48 two of this section, or a similarly authorized person in another state,
49 a registration system located in this state shall notify the person of
50 the identities of volunteer health practitioners and whether the practi-
51 tioners are licensed and in good standing.

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

1 § 3087. Recognition of volunteer health practitioners licensed in
2 other states. 1. While a state disaster emergency declaration is in
3 effect, a volunteer health practitioner, registered with a registration
4 system that complies with section three thousand eighty-six of this
5 article and licensed and in good standing in the state upon which the
6 practitioner's registration is based, may practice in this state to the
7 extent authorized by this article as if the practitioner were licensed
8 in this state.

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

15 § 3088. No effect on credentialing and privileging. This article shall
16 not affect credentialing or privileging standards of a health facility
17 and does not preclude a health facility from waiving or modifying those
18 standards while an emergency declaration is in effect.

19 § 3089. Provision of volunteer health or veterinary services; adminis-
20 trative sanctions. 1. Subject to subdivisions two and three of this
21 section, a volunteer health practitioner shall adhere to the scope of
22 practice for a similarly licensed practitioner established by the
23 licensing provisions, practice acts, or other laws of this state.

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

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

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

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

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

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

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

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

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

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

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

16 § 3090. Relation to other laws. 1. This article shall not limit
17 rights, privileges, or immunities provided to volunteer health practi-
18 tioners by any other law. Except as otherwise provided in subdivision
19 two of this section, this article shall not affect requirements for the
20 use of health practitioners pursuant to the emergency management assist-
21 ance compact.

22 2. The New York state division of homeland security and emergency
23 services, pursuant to the emergency management assistance compact, may
24 incorporate into the emergency forces of this state volunteer health
25 practitioners who are not officers or employees of this state, a poli-
26 tical subdivision of this state, or a municipality or other local
27 government within this state.

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

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

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

48 (a) willful misconduct or wanton, grossly negligent, reckless, or
49 criminal conduct;

50 (b) an intentional tort;

51 (c) breach of contract;

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

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

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

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

12 § 3093. Workers' compensation coverage. 1. In this section, "injury"
13 means a physical or mental injury or disease for which an employee of
14 this state who is injured or contracts a disease in the course of the
15 employee's employment would be entitled to benefits under the workers'
16 compensation law.

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

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

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

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

38 § 3094. Uniformity of application and construction. In applying and
39 construing this article, consideration shall be given to the need to
40 promote uniformity of the law with respect to its subject matter among
41 states that enact it.

42 § 4. This act shall take effect immediately.