
HOUSE BILL 1400

State of Washington

61st Legislature

2009 Regular Session

By Representatives Cody, Hinkle, Green, Morrell, Ericksen, Nelson, and Moeller; by request of Uniform Legislation Commission

Read first time 01/20/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to the uniform emergency volunteer health
2 practitioners act; amending RCW 38.52.010, 38.52.180, and 43.70.250;
3 and adding a new chapter to Title 38 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
6 uniform emergency volunteer health practitioners act.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Department" means the state military department.

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

13 (a) Is designated or recognized as a provider of those services
14 pursuant to a disaster response and recovery plan adopted by an agency
15 of the federal government or the department; or

16 (b) Regularly plans and conducts its activities in coordination
17 with an agency of the federal government or the department.

1 (3) "Emergency" means an event or condition that is an emergency,
2 disaster, or public health emergency under chapter 38.52 RCW.

3 (4) "Emergency declaration" means a declaration of emergency issued
4 by the governor under RCW 43.06.010.

5 (5) "Emergency management assistance compact" means the interstate
6 compact approved by congress by P.L. 104-321, 110 Stat. 3877, RCW
7 38.10.010.

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

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

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

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

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

20 (i) Preventive, diagnostic, therapeutic, rehabilitative,
21 maintenance, or palliative care; and

22 (ii) Counseling, assessment, procedures, or other services;

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

25 (c) Funeral, cremation, cemetery, or other mortuary services.

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

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

33 (12) "Person" means an individual, corporation, business trust,
34 trust, partnership, limited liability company, association, joint
35 venture, public corporation, government or governmental subdivision,
36 agency, or instrumentality, or any other legal or commercial entity.

37 (13) "Scope of practice" means the extent of the authorization to
38 provide health or veterinary services granted to a health practitioner

1 by a license issued to the practitioner in the state in which the
2 principal part of the practitioner's services are rendered, including
3 any conditions imposed by the licensing authority.

4 (14) "State" means a state of the United States, the District of
5 Columbia, Puerto Rico, the United States Virgin Islands, or any
6 territory or insular possession subject to the jurisdiction of the
7 United States.

8 (15) "Veterinary services" means the provision of treatment, care,
9 advice or guidance, or other services, or supplies, related to the
10 health or death of an animal or to animal populations, to the extent
11 necessary to respond to an emergency, including:

12 (a) Diagnosis, treatment, or prevention of an animal disease,
13 injury, or other physical or mental condition by the prescription,
14 administration, or dispensing of vaccine, medicine, surgery, or
15 therapy;

16 (b) Use of a procedure for reproductive management; and

17 (c) Monitoring and treatment of animal populations for diseases
18 that have spread or demonstrate the potential to spread to humans.

19 (16) "Volunteer health practitioner" means a health practitioner
20 who provides health or veterinary services, whether or not the
21 practitioner receives compensation for those services. The term does
22 not include a practitioner who receives compensation pursuant to a
23 preexisting employment relationship with a host entity or affiliate
24 which requires the practitioner to provide health services in this
25 state, unless the practitioner is not a resident of this state and is
26 employed by a disaster relief organization providing services in this
27 state while an emergency declaration is in effect.

28 NEW SECTION. **Sec. 3.** This chapter applies to volunteer health
29 practitioners registered with a registration system that complies with
30 section 5 of this act and who provide health or veterinary services in
31 this state for a host entity while an emergency declaration is in
32 effect.

33 NEW SECTION. **Sec. 4.** (1) While an emergency declaration is in
34 effect, the department may limit, restrict, or otherwise regulate:

35 (a) The duration of practice by volunteer health practitioners;

1 (b) The geographical areas in which volunteer health practitioners
2 may practice;

3 (c) The types of volunteer health practitioners who may practice;
4 and

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

7 (2) An order issued pursuant to subsection (1) of this section may
8 take effect immediately, without prior notice or comment, and is not a
9 rule within the meaning of the administrative procedure act, chapter
10 34.05 RCW.

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

13 (a) Consult and coordinate its activities with the department to
14 the extent practicable to provide for the efficient and effective use
15 of volunteer health practitioners; and

16 (b) Comply with any laws other than this chapter relating to the
17 management of emergency health or veterinary services.

18 NEW SECTION. **Sec. 5.** (1) To qualify as a volunteer health
19 practitioner registration system, a system must:

20 (a) Accept applications for the registration of volunteer health
21 practitioners before or during an emergency;

22 (b) Include information about the licensure and good standing of
23 health practitioners which is accessible by authorized persons;

24 (c) Be capable of confirming the accuracy of information concerning
25 whether a health practitioner is licensed and in good standing before
26 health services or veterinary services are provided under this chapter;
27 and

28 (d) Meet one of the following conditions:

29 (i) Be an emergency system for advance registration of volunteer
30 health care practitioners established by a state and funded through the
31 health resources services administration under section 319I of the
32 public health services act (42 U.S.C. Sec. 247d-7b, as amended);

33 (ii) Be a local unit consisting of trained and equipped emergency
34 response, public health, and medical personnel formed pursuant to
35 section 2801 of the public health services act (42 U.S.C. Sec. 300hh,
36 as amended);

37 (iii) Be operated by a:

- 1 (A) Disaster relief organization;
- 2 (B) Licensing board;
- 3 (C) National or regional association of licensing boards or health
- 4 practitioners;
- 5 (D) Health facility that provides comprehensive inpatient and
- 6 outpatient healthcare services, including a tertiary care and teaching
- 7 hospital; or
- 8 (E) Governmental entity; or
- 9 (iv) Be designated by the department as a registration system for
- 10 purposes of this chapter.

11 (2) While an emergency declaration is in effect, the department,
12 a person authorized to act on behalf of the department, or a host
13 entity may confirm whether volunteer health practitioners utilized in
14 this state are registered with a registration system that complies with
15 subsection (1) of this section. Confirmation is limited to obtaining
16 identities of the practitioners from the system and determining whether
17 the system indicates that the practitioners are licensed and in good
18 standing.

19 (3) Upon request of a person in this state authorized under
20 subsection (2) of this section, or a similarly authorized person in
21 another state, a registration system located in this state shall notify
22 the person of the identities of volunteer health practitioners and
23 whether the practitioners are licensed and in good standing.

24 (4) A host entity is not required to use the services of a
25 volunteer health practitioner even if the practitioner is registered
26 with a registration system that indicates that the practitioner is
27 licensed and in good standing.

28 NEW SECTION. **Sec. 6.** (1) While an emergency declaration is in
29 effect, a volunteer health practitioner, registered with a registration
30 system that complies with section 5 of this act and licensed and in
31 good standing in the state upon which the practitioner's registration
32 is based, may practice in this state to the extent authorized by this
33 chapter as if the practitioner were licensed in this state.

34 (2) A volunteer health practitioner qualified under subsection (1)
35 of this section is not entitled to the protections of this chapter if
36 the practitioner is licensed in more than one state and any license of

1 the practitioner is suspended, revoked, or subject to an agency order
2 limiting or restricting practice privileges, or has been voluntarily
3 terminated under threat of sanction.

4 NEW SECTION. **Sec. 7.** (1) As used in this section:

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

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

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

17 NEW SECTION. **Sec. 8.** (1) Subject to subsections (2) and (3) of
18 this section, a volunteer health practitioner shall adhere to the scope
19 of practice for a similarly licensed practitioner established by the
20 licensing provisions, practice acts, or other laws of this state.

21 (2) Except as otherwise provided in subsection (3) of this section,
22 this chapter does not authorize a volunteer health practitioner to
23 provide services that are outside the practitioner's scope of practice,
24 even if a similarly licensed practitioner in this state would be
25 permitted to provide the services.

26 (3) The department may modify or restrict the health or veterinary
27 services that volunteer health practitioners may provide pursuant to
28 this chapter. An order under this subsection may take effect
29 immediately, without prior notice or comment, and is not a rule within
30 the meaning of the administrative procedure act, chapter 34.05 RCW.

31 (4) A host entity may restrict the health or veterinary services
32 that a volunteer health practitioner may provide pursuant to this
33 chapter.

34 (5) A volunteer health practitioner does not engage in unauthorized
35 practice unless the practitioner has reason to know of any limitation,
36 modification, or restriction under this section or that a similarly

1 licensed practitioner in this state would not be permitted to provide
2 the services. A volunteer health practitioner has reason to know of a
3 limitation, modification, or restriction or that a similarly licensed
4 practitioner in this state would not be permitted to provide a service
5 if:

6 (a) The practitioner knows the limitation, modification, or
7 restriction exists or that a similarly licensed practitioner in this
8 state would not be permitted to provide the service; or

9 (b) From all the facts and circumstances known to the practitioner
10 at the relevant time, a reasonable person would conclude that the
11 limitation, modification, or restriction exists or that a similarly
12 licensed practitioner in this state would not be permitted to provide
13 the service.

14 (6) In addition to the authority granted by law of this state other
15 than this chapter to regulate the conduct of health practitioners, a
16 licensing board or other disciplinary authority in this state:

17 (a) May impose administrative sanctions upon a health practitioner
18 licensed in this state for conduct outside of this state in response to
19 an out-of-state emergency;

20 (b) May impose administrative sanctions upon a practitioner not
21 licensed in this state for conduct in this state in response to an
22 in-state emergency; and

23 (c) Shall report any administrative sanctions imposed upon a
24 practitioner licensed in another state to the appropriate licensing
25 board or other disciplinary authority in any other state in which the
26 practitioner is known to be licensed.

27 (7) In determining whether to impose administrative sanctions under
28 subsection (6) of this section, a licensing board or other disciplinary
29 authority shall consider the circumstances in which the conduct took
30 place, including any exigent circumstances, and the practitioner's
31 scope of practice, education, training, experience, and specialized
32 skill.

33 NEW SECTION. **Sec. 9.** (1) This chapter does not limit rights,
34 privileges, or immunities provided to volunteer health practitioners by
35 laws other than this chapter. Except as otherwise provided in
36 subsection (2) of this section, this chapter does not affect

1 requirements for the use of health practitioners pursuant to the
2 emergency management assistance compact.

3 (2) The department, pursuant to the emergency management assistance
4 compact, may incorporate into the emergency forces of this state
5 volunteer health practitioners who are not officers or employees of
6 this state, a political subdivision of this state, or a municipality or
7 other local government within this state.

8 NEW SECTION. **Sec. 10.** The department may promulgate rules to
9 implement this chapter. In doing so, the department shall consult with
10 and consider the recommendations of the entity established to
11 coordinate the implementation of the emergency management assistance
12 compact and shall also consult with and consider rules promulgated by
13 similarly empowered agencies in other states to promote uniformity of
14 application of this chapter and make the emergency response systems in
15 the various states reasonably compatible.

16 NEW SECTION. **Sec. 11.** In applying and construing this uniform
17 act, consideration must be given to the need to promote uniformity of
18 the law with respect to its subject matter among states that enact it.

19 **Sec. 12.** RCW 38.52.010 and 2007 c 292 s 1 are each amended to read
20 as follows:

21 As used in this chapter:

22 (1) "Emergency management" or "comprehensive emergency management"
23 means the preparation for and the carrying out of all emergency
24 functions, other than functions for which the military forces are
25 primarily responsible, to mitigate, prepare for, respond to, and
26 recover from emergencies and disasters, and to aid victims suffering
27 from injury or damage, resulting from disasters caused by all hazards,
28 whether natural, technological, or human caused, and to provide support
29 for search and rescue operations for persons and property in distress.
30 However, "emergency management" or "comprehensive emergency management"
31 does not mean preparation for emergency evacuation or relocation of
32 residents in anticipation of nuclear attack.

33 (2) "Local organization for emergency services or management" means
34 an organization created in accordance with the provisions of this

1 chapter by state or local authority to perform local emergency
2 management functions.

3 (3) "Political subdivision" means any county, city or town.

4 (4) "Emergency worker" means any person, including but not limited
5 to an architect registered under chapter 18.08 RCW or a professional
6 engineer registered under chapter 18.43 RCW, who is registered with a
7 local emergency management organization or the department and holds an
8 identification card issued by the local emergency management director
9 or the department for the purpose of engaging in authorized emergency
10 management activities or is an employee of the state of Washington or
11 any political subdivision thereof who is called upon to perform
12 emergency management activities.

13 (5) "Injury" as used in this chapter shall mean and include
14 accidental injuries and/or occupational diseases arising out of
15 emergency management activities.

16 (6)(a) "Emergency or disaster" as used in all sections of this
17 chapter except RCW 38.52.430 shall mean an event or set of
18 circumstances which: (i) Demands immediate action to preserve public
19 health, protect life, protect public property, or to provide relief to
20 any stricken community overtaken by such occurrences, or (ii) reaches
21 such a dimension or degree of destructiveness as to warrant the
22 governor declaring a state of emergency pursuant to RCW 43.06.010.

23 (b) "Emergency" as used in RCW 38.52.430 means an incident that
24 requires a normal police, coroner, fire, rescue, emergency medical
25 services, or utility response as a result of a violation of one of the
26 statutes enumerated in RCW 38.52.430.

27 (7) "Search and rescue" means the acts of searching for, rescuing,
28 or recovering by means of ground, marine, or air activity any person
29 who becomes lost, injured, or is killed while outdoors or as a result
30 of a natural, technological, or human caused disaster, including
31 instances involving searches for downed aircraft when ground personnel
32 are used. Nothing in this section shall affect appropriate activity by
33 the department of transportation under chapter 47.68 RCW.

34 (8) "Executive head" and "executive heads" means the county
35 executive in those charter counties with an elective office of county
36 executive, however designated, and, in the case of other counties, the
37 county legislative authority. In the case of cities and towns, it
38 means the mayor in those cities and towns with mayor-council or

1 commission forms of government, where the mayor is directly elected,
2 and it means the city manager in those cities and towns with council
3 manager forms of government. Cities and towns may also designate an
4 executive head for the purposes of this chapter by ordinance.

5 (9) "Director" means the adjutant general.

6 (10) "Local director" means the director of a local organization of
7 emergency management or emergency services.

8 (11) "Department" means the state military department.

9 (12) "Emergency response" as used in RCW 38.52.430 means a public
10 agency's use of emergency services during an emergency or disaster as
11 defined in subsection (6)(b) of this section.

12 (13) "Expense of an emergency response" as used in RCW 38.52.430
13 means reasonable costs incurred by a public agency in reasonably making
14 an appropriate emergency response to the incident, but shall only
15 include those costs directly arising from the response to the
16 particular incident. Reasonable costs shall include the costs of
17 providing police, coroner, fire fighting, rescue, emergency medical
18 services, or utility response at the scene of the incident, as well as
19 the salaries of the personnel responding to the incident.

20 (14) "Public agency" means the state, and a city, county, municipal
21 corporation, district, town, or public authority located, in whole or
22 in part, within this state which provides or may provide fire fighting,
23 police, ambulance, medical, or other emergency services.

24 (15) "Incident command system" means: (a) An all-hazards, on-scene
25 functional management system that establishes common standards in
26 organization, terminology, and procedures; provides a means (unified
27 command) for the establishment of a common set of incident objectives
28 and strategies during multiagency/multijurisdiction operations while
29 maintaining individual agency/jurisdiction authority, responsibility,
30 and accountability; and is a component of the national interagency
31 incident management system; or (b) an equivalent and compatible all-
32 hazards, on-scene functional management system.

33 (16) "Radio communications service company" has the meaning
34 ascribed to it in RCW 82.14B.020.

35 **Sec. 13.** RCW 38.52.180 and 2007 c 292 s 2 are each amended to read
36 as follows:

37 (1) There shall be no liability on the part of anyone including any

1 person, partnership, corporation, the state of Washington or any
2 political subdivision thereof who owns or maintains any building or
3 premises which have been designated by a local organization for
4 emergency management as a shelter from destructive operations or
5 attacks by enemies of the United States for any injuries sustained by
6 any person while in or upon said building or premises, as a result of
7 the condition of said building or premises or as a result of any act or
8 omission, or in any way arising from the designation of such premises
9 as a shelter, when such person has entered or gone upon or into said
10 building or premises for the purpose of seeking refuge therein during
11 destructive operations or attacks by enemies of the United States or
12 during tests ordered by lawful authority, except for an act of willful
13 negligence by such owner or occupant or his servants, agents, or
14 employees.

15 (2) All legal liability for damage to property or injury or death
16 to persons (except an emergency worker, regularly enrolled and acting
17 as such), caused by acts done or attempted (~~(during or while traveling~~
18 ~~to or from an emergency or disaster, search and rescue, or training or~~
19 ~~exercise authorized by the department in preparation for an emergency~~
20 ~~or disaster or search and rescue)), under the color of this chapter in
21 a bona fide attempt to comply therewith(~~(, except as provided in~~
22 ~~subsections (3), (4), and (5) of this section regarding covered~~
23 ~~volunteer emergency workers,)) shall be the obligation of the state of
24 Washington. Suits may be instituted and maintained against the state
25 for the enforcement of such liability, or for the indemnification of
26 persons appointed and regularly enrolled as emergency workers while
27 actually engaged in emergency management duties, or as members of any
28 agency of the state or political subdivision thereof engaged in
29 emergency management activity, or their dependents, for damage done to
30 their private property, or for any judgment against them for acts done
31 in good faith in compliance with this chapter: PROVIDED, That the
32 foregoing shall not be construed to result in indemnification in any
33 case of willful misconduct, gross negligence or bad faith on the part
34 of any agent of emergency management: PROVIDED, That should the United
35 States or any agency thereof, in accordance with any federal statute,
36 rule or regulation, provide for the payment of damages to property
37 and/or for death or injury as provided for in this section, then and in~~~~

1 that event there shall be no liability or obligation whatsoever upon
2 the part of the state of Washington for any such damage, death, or
3 injury for which the United States government assumes liability.

4 ~~(3) ((No act or omission by a covered volunteer emergency worker
5 while engaged in a covered activity shall impose any liability for
6 civil damages resulting from such an act or omission upon:~~

7 ~~(a) The covered volunteer emergency worker;~~

8 ~~(b) The supervisor or supervisors of the covered volunteer
9 emergency worker;~~

10 ~~(c) Any facility or their officers or employees;~~

11 ~~(d) The employer of the covered volunteer emergency worker;~~

12 ~~(e) The owner of the property or vehicle where the act or omission
13 may have occurred during the covered activity;~~

14 ~~(f) Any local organization that registered the covered volunteer
15 emergency worker; and~~

16 ~~(g) The state or any state or local governmental entity.~~

17 ~~(4) The immunity in subsection (3) of this section applies only
18 when the covered volunteer emergency worker was engaged in a covered
19 activity:~~

20 ~~(a) Within the scope of his or her assigned duties;~~

21 ~~(b) Under the direction of a local emergency management
22 organization or the department, or a local law enforcement agency for
23 search and rescue; and~~

24 ~~(c) The act or omission does not constitute gross negligence or
25 willful or wanton misconduct.~~

26 ~~(5) For purposes of this section:~~

27 ~~(a) "Covered volunteer emergency worker" means an emergency worker
28 as defined in RCW 38.52.010 who (i) is not receiving or expecting
29 compensation as an emergency worker from the state or local government,
30 or (ii) is not a state or local government employee unless on leave
31 without pay status.~~

32 ~~(b) "Covered activity" means:~~

33 ~~(i) Providing assistance or transportation authorized by the
34 department during an emergency or disaster or search and rescue as
35 defined in RCW 38.52.010, whether such assistance or transportation is
36 provided at the scene of the emergency or disaster or search and
37 rescue, at an alternative care site, at a hospital, or while in route
38 to or from such sites or between sites; or~~

1 ~~(ii) Participating in training or exercise authorized by the~~
2 ~~department in preparation for an emergency or disaster or search and~~
3 ~~rescue.~~

4 ~~(6))~~ Any requirement for a license to practice any professional,
5 mechanical or other skill shall not apply to any authorized emergency
6 worker who shall, in the course of performing his duties as such,
7 practice such professional, mechanical or other skill during an
8 emergency described in this chapter.

9 ~~((7))~~ (4) The provisions of this section shall not affect the
10 right of any person to receive benefits to which he would otherwise be
11 entitled under this chapter, or under the workers' compensation law, or
12 under any pension or retirement law, nor the right of any such person
13 to receive any benefits or compensation under any act of congress.

14 **Sec. 14.** RCW 43.70.250 and 2006 c 72 s 4 are each amended to read
15 as follows:

16 It shall be the policy of the state of Washington that the cost of
17 each professional, occupational, or business licensing program be fully
18 borne by the members of that profession, occupation, or business. The
19 secretary shall from time to time establish the amount of all
20 application fees, license fees, registration fees, examination fees,
21 permit fees, renewal fees, and any other fee associated with licensing
22 or regulation of professions, occupations, or businesses administered
23 by the department. In fixing said fees, the secretary shall set the
24 fees for each program at a sufficient level to defray the costs of
25 administering that program ~~((and the cost of regulating licensed~~
26 ~~volunteer medical workers in accordance with RCW 18.130.360))~~, except
27 as provided in RCW 18.79.202 until June 30, 2013. All such fees shall
28 be fixed by rule adopted by the secretary in accordance with the
29 provisions of the administrative procedure act, chapter 34.05 RCW.

30 NEW SECTION. **Sec. 15.** Sections 1 through 11 of this act
31 constitute a new chapter in Title 38 RCW.

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