
SUBSTITUTE SENATE BILL 5990

State of Washington

65th Legislature

2018 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Van De Wege, Pedersen, and Kuderer; by request of Uniform Law Commission)

READ FIRST TIME 01/24/18.

1 AN ACT Relating to the uniform emergency volunteer health
2 practitioners act; amending RCW 38.52.010; and adding a new chapter
3 to Title 70 RCW.

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

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

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

10 (1) "Department" means the department of health.

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

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

18 (b) Regularly plans and conducts its activities in coordination
19 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 proclamation of a state of
4 emergency issued by the governor under RCW 43.06.010.

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

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

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

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

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

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

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

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

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

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

38 (13) "Scope of practice" means the extent of the authorization to
39 provide health or veterinary services granted to a health
40 practitioner by a license issued to the practitioner in the state in

1 which the principal part of the practitioner's services are rendered,
2 including any conditions imposed by the licensing authority.

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 4.** REGULATION OF SERVICES DURING EMERGENCY.

33 (1) While an emergency declaration is in effect, the department may
34 limit, restrict, or otherwise regulate:

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

36 (b) The geographical areas in which volunteer health
37 practitioners may practice;

1 (c) The types of volunteer health practitioners who may practice;
2 and

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

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

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

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

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

16 NEW SECTION. **Sec. 5.** VOLUNTEER HEALTH PRACTITIONER REGISTRATION
17 SYSTEMS. (1) To qualify as a volunteer health practitioner
18 registration system, a system must:

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

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

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

27 (d) Meet one of the following conditions:

28 (i) Be an emergency system for advance registration of volunteer
29 health care practitioners established by a state and funded through
30 the United States department of health and human services under
31 section 319I of the public health services act, 42 U.S.C. Sec.
32 247d-7b, as it existed on the effective date of this section, or such
33 subsequent date as may be provided by the department by rule,
34 consistent with the purposes of this section;

35 (ii) Be a local unit consisting of trained and equipped emergency
36 response, public health, and medical personnel formed pursuant to
37 section 2801 of the public health services act, 42 U.S.C. Sec. 300hh,
38 as it existed on the effective date of this section, or such

1 subsequent date as may be provided by the department by rule,
2 consistent with the purposes of this section;

3 (iii) Be operated by a:

4 (A) Disaster relief organization;

5 (B) Licensing board;

6 (C) National or regional association of licensing boards or
7 health practitioners;

8 (D) Health facility that provides comprehensive inpatient and
9 outpatient healthcare services, including a tertiary care, teaching
10 hospital, or acute care facility; or

11 (E) Governmental entity; or

12 (iv) Be designated by the department as a registration system for
13 purposes of this chapter.

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

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

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

31 NEW SECTION. **Sec. 6.** RECOGNITION OF VOLUNTEER HEALTH
32 PRACTITIONERS LICENSED IN OTHER STATES. (1) While an emergency
33 declaration is in effect, a volunteer health practitioner, registered
34 with a registration system that complies with section 5 of this act
35 and licensed and in good standing in the state upon which the
36 practitioner's registration is based, may practice in this state to
37 the extent authorized by this chapter as if the practitioner were
38 licensed in this state.

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

7 NEW SECTION. **Sec. 7.** NO EFFECT ON CREDENTIALING AND
8 PRIVILEGING. (1) As used in this section:

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

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

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

22 NEW SECTION. **Sec. 8.** PROVISION OF VOLUNTEER HEALTH OR
23 VETERINARY SERVICES—ADMINISTRATIVE SANCTIONS. (1) Subject to
24 subsections (2) and (3) of this section, a volunteer health
25 practitioner shall adhere to the scope of practice for a similarly
26 licensed practitioner established by the licensing provisions,
27 practice acts, or other laws of this state.

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

33 (3) The department may modify or restrict the health or
34 veterinary services that volunteer health practitioners may provide
35 pursuant to this chapter. An order under this subsection may take
36 effect immediately, without prior notice or comment, and is not a
37 rule within the meaning of the administrative procedure act, chapter
38 34.05 RCW.

1 (4) A host entity may restrict the health or veterinary services
2 that a volunteer health practitioner may provide pursuant to this
3 chapter.

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

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

15 (b) From all the facts and circumstances known to the
16 practitioner at the relevant time, a reasonable person would conclude
17 that the limitation, modification, or restriction exists or that a
18 similarly licensed practitioner in this state would not be permitted
19 to provide the service.

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

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

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

30 (c) Shall report any administrative sanctions imposed upon a
31 practitioner licensed in another state to the appropriate licensing
32 board or other disciplinary authority in any other state in which the
33 practitioner is known to be licensed.

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

1 NEW SECTION. **Sec. 9.** RELATION TO OTHER LAWS. (1) This chapter
2 does not limit rights, privileges, or immunities provided to
3 volunteer health practitioners by laws other than this chapter.
4 Except as otherwise provided in subsection (2) of this section, this
5 chapter does not affect requirements for the use of health
6 practitioners pursuant to the emergency management assistance compact
7 or the pacific northwest emergency management arrangement approved by
8 congress by P.L. 105-381, 112 Stat. 3402.

9 (2) The department, pursuant to the emergency management
10 assistance compact or the pacific northwest emergency management
11 arrangement approved by congress by P.L. 105-381, 112 Stat. 3402, may
12 incorporate into the emergency forces of this state volunteer health
13 practitioners who are not officers or employees of this state, a
14 political subdivision of this state, or a municipality or other local
15 government within this state.

16 NEW SECTION. **Sec. 10.** REGULATORY AUTHORITY. The department may
17 promulgate rules to implement this chapter. In doing so, the
18 department shall consult with and consider the recommendations of the
19 state military department as the agency established to carry out the
20 state's program for emergency management, and coordinate the
21 implementation of the emergency management assistance compact with
22 the state military department to ensure conformity with the state's
23 program for emergency management and the coordination of all response
24 activities through the state's emergency operations center during a
25 state of emergency. The department shall also consult with and
26 consider rules promulgated by similarly empowered agencies in other
27 states to promote uniformity of application of this chapter and make
28 the emergency response systems in the various states reasonably
29 compatible.

30 NEW SECTION. **Sec. 11.** WORKERS' COMPENSATION COVERAGE. (1) A
31 volunteer health practitioner who dies or is injured as the result of
32 providing health or veterinary services pursuant to this chapter is
33 deemed to be an employee of this state for the purpose of receiving
34 benefits for the death or injury under the workers' compensation law
35 of this state, Title 51 RCW, if:

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

1 (b) The practitioner, or in the case of death the practitioner's
2 personal representative, elects coverage under the workers'
3 compensation law of this state, Title 51 RCW, by making a claim under
4 that law.

5 (2) The department in consultation with the department of labor
6 and industries shall adopt rules, enter into agreements with other
7 states, or take other measures to facilitate the receipt of benefits
8 for injury or death under the workers' compensation law of this
9 state, Title 51 RCW, by volunteer health practitioners who reside in
10 other states, and may waive or modify requirements for filing,
11 processing, and paying claims that unreasonably burden the
12 practitioners. To promote uniformity of application of this chapter
13 with other states that enact similar legislation, the department
14 shall consult with and consider the practices for filing, processing,
15 and paying claims by agencies with similar authority in other states.

16 (3) For the purposes of this section, "injury" means a physical
17 or mental injury or disease for which an employee of this state who
18 is injured or contracts the disease in the course of the employee's
19 employment would be entitled to benefits under the workers'
20 compensation law of this state, Title 51 RCW.

21 NEW SECTION. **Sec. 12.** LIABILITY. (1) No act or omission, except
22 those acts or omissions constituting gross negligence, an intentional
23 tort, or willful or wanton misconduct, by an emergency volunteer
24 health practitioner registered and providing services within the
25 provisions of this chapter shall impose any liability for civil
26 damages resulting from such an act or omission upon:

- 27 (a) The emergency volunteer health practitioner;
28 (b) The supervisor or supervisors of the emergency volunteer
29 health practitioner;
30 (c) Any facility or their officers or employees;
31 (d) The employer of the emergency volunteer health practitioner;
32 (e) The owner of the property or vehicle where the act or
33 omission may have occurred;
34 (f) Any organization that registered the emergency volunteer
35 health practitioner under the provisions of this chapter;
36 (g) The state or any state or local governmental entity; or
37 (h) Any professional or trade association of the emergency
38 volunteer health practitioner.

1 (2) A person that, pursuant to this chapter, operates, uses, or
2 relies upon information provided by a volunteer health practitioner
3 registration system is not liable for damages for an act or omission
4 relating to that operation, use, or reliance unless the act or
5 omission constitutes gross negligence, an intentional tort, or
6 willful or wanton misconduct.

7 NEW SECTION. **Sec. 13.** UNIFORMITY OF APPLICATION AND
8 CONSTRUCTION. In applying and construing this uniform act,
9 consideration must be given to the need to promote uniformity of the
10 law with respect to its subject matter among states that enact it.

11 **Sec. 14.** RCW 38.52.010 and 2017 c 312 s 3 are each amended to
12 read as follows:

13 As used in this chapter:

14 (1) "Communication plan," as used in RCW 38.52.070, means a
15 section in a local comprehensive emergency management plan that
16 addresses emergency notification of life safety information.

17 (2) "Continuity of operations planning" means the internal effort
18 of an organization to assure that the capability exists to continue
19 essential functions and services in response to a comprehensive array
20 of potential emergencies or disasters.

21 (3) "Department" means the state military department.

22 (4) "Director" means the adjutant general.

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

35 (6)(a) "Emergency or disaster" as used in all sections of this
36 chapter except RCW 38.52.430 shall mean an event or set of
37 circumstances which: (i) Demands immediate action to preserve public
38 health, protect life, protect public property, or to provide relief

1 to any stricken community overtaken by such occurrences, or (ii)
2 reaches such a dimension or degree of destructiveness as to warrant
3 the governor declaring a state of emergency pursuant to RCW
4 43.06.010.

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

9 (7) "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 (8) "Emergency worker" means any person who is:

13 (a) Registered with a local emergency management organization or
14 the department and holds an identification card issued by the local
15 emergency management director or the department for the purpose of
16 engaging in authorized emergency management activities; or (~~is~~)

17 (b) An employee of the state of Washington or any political
18 subdivision thereof who is called upon to perform emergency
19 management activities.

20 (9) "Executive head" and "executive heads" means the county
21 executive in those charter counties with an elective office of county
22 executive, however designated, and, in the case of other counties,
23 the county legislative authority. In the case of cities and towns, it
24 means the mayor in those cities and towns with mayor-council or
25 commission forms of government, where the mayor is directly elected,
26 and it means the city manager in those cities and towns with council
27 manager forms of government. Cities and towns may also designate an
28 executive head for the purposes of this chapter by ordinance.

29 (10) "Expense of an emergency response" as used in RCW 38.52.430
30 means reasonable costs incurred by a public agency in reasonably
31 making an appropriate emergency response to the incident, but shall
32 only include those costs directly arising from the response to the
33 particular incident. Reasonable costs shall include the costs of
34 providing police, coroner, firefighting, rescue, emergency medical
35 services, or utility response at the scene of the incident, as well
36 as the salaries of the personnel responding to the incident.

37 (11) "Incident command system" means: (a) An all-hazards, on-
38 scene functional management system that establishes common standards
39 in organization, terminology, and procedures; provides a means
40 (unified command) for the establishment of a common set of incident

1 objectives and strategies during multiagency/multijurisdiction
2 operations while maintaining individual agency/jurisdiction
3 authority, responsibility, and accountability; and is a component of
4 the national interagency incident management system; or (b) an
5 equivalent and compatible all-hazards, on-scene functional management
6 system.

7 (12) "Injury" as used in this chapter shall mean and include
8 accidental injuries and/or occupational diseases arising out of
9 emergency management activities.

10 (13) "Life safety information" means information provided to
11 people during a response to a life-threatening emergency or disaster
12 informing them of actions they can take to preserve their safety.
13 Such information may include, but is not limited to, information
14 regarding evacuation, sheltering, sheltering-in-place, facility
15 lockdown, and where to obtain food and water.

16 (14) "Local director" means the director of a local organization
17 of emergency management or emergency services.

18 (15) "Local organization for emergency services or management"
19 means an organization created in accordance with the provisions of
20 this chapter by state or local authority to perform local emergency
21 management functions.

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

23 (17) "Public agency" means the state, and a city, county,
24 municipal corporation, district, town, or public authority located,
25 in whole or in part, within this state which provides or may provide
26 firefighting, police, ambulance, medical, or other emergency
27 services.

28 (18) "Radio communications service company" has the meaning
29 ascribed to it in RCW 82.14B.020.

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

38 (20) "Volunteer health practitioner" has the same meaning as
39 provided in section 2 of this act.

1 NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act
2 constitute a new chapter in Title 70 RCW.

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