



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5133

Introduced 1/29/2010, by Rep. Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 2105/2105-400

Creates the Uniform Emergency Volunteer Health Practitioners Act. Provides for the registration of volunteer health practitioners with a registration system for the provision of health or veterinary services in the State for a host entity while an emergency declaration is in effect. Provides for the creation of the registration system. Provides that the Illinois Emergency Management Agency shall be the administrating authority of the uniform Act. Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois to grant the Secretary of Financial and Professional Regulation the power to request the services of emergency volunteer health practitioners registered under the Uniform Emergency Volunteer Health Practitioners Act. Amends the Good Samaritan Act to include volunteers under the Uniform Emergency Volunteer Health Practitioners Act in the list of disaster relief volunteers granted immunity from liability under the Act and to broaden the types of emergency situations in which the immunity applies.

LRB096 18721 AJO 34105 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Uniform Emergency Volunteer Health Practitioners Act.

6 Section 2. Definitions. In this Act:

7 (1) "Disaster relief organization" means an entity that
8 provides emergency or disaster relief services that include
9 health or veterinary services provided by volunteer health
10 practitioners and that:

11 (A) is designated or recognized as a provider of those
12 services pursuant to a disaster response and recovery plan
13 adopted by an agency of the federal government or the
14 Illinois Emergency Management Agency; or

15 (B) regularly plans and conducts its activities in
16 coordination with an agency of the federal government or
17 the Illinois Emergency Management Agency.

18 (2) "Emergency" means an event or condition that is a
19 disaster as defined in Section 4 of the Illinois Emergency
20 Management Agency Act.

21 (3) "Emergency declaration" means a declaration of
22 emergency issued by a person authorized to do so under the laws
23 of this State or a disaster proclamation issued by the Governor

1 pursuant to Section 7 of the Illinois Emergency Management
2 Agency Act.

3 (4) (Reserved).

4 (5) "Entity" means a person other than an individual.

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

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

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

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

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

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

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

26 (C) funeral, cremation, cemetery, or other mortuary

1 services.

2 (9) "Host entity" means an entity operating in this State
3 which uses volunteer health practitioners to respond to an
4 emergency, including a healthcare facility, system, clinic or
5 other fixed or mobile location where health care services are
6 provided. A disaster relief organization may also be a host
7 entity under this subsection to the extent that it operates a
8 healthcare facility, system, clinic, or other fixed or mobile
9 location in providing emergency or disaster relief services.

10 (10) "License" means authorization by a state to engage in
11 health or veterinary services that are unlawful without the
12 authorization.

13 (11) "Person" means an individual, corporation, business
14 trust, trust, partnership, limited liability company,
15 association, joint venture, public corporation, government or
16 governmental subdivision, agency, or instrumentality, or any
17 other legal or commercial entity.

18 (12) "Scope of practice" means the extent of the
19 authorization to provide health or veterinary services granted
20 to a health practitioner by a license issued to the
21 practitioner in the state in which the principal part of the
22 practitioner's services are rendered, including any conditions
23 imposed by the licensing authority.

24 (13) "State" means a state of the United States, the
25 District of Columbia, Puerto Rico, the United States Virgin
26 Islands, or any territory or insular possession subject to the

1 jurisdiction of the United States.

2 (14) "Veterinary services" means the provision of
3 treatment, care, advice or guidance, or other services, or
4 supplies, related to the health or death of an animal or to
5 animal populations, to the extent necessary to respond to an
6 emergency declaration, including:

7 (A) diagnosis, treatment, or prevention of an animal
8 disease, injury, or other physical or mental condition by
9 the prescription, administration, or dispensing of
10 vaccine, medicine, surgery, or therapy;

11 (B) use of a procedure for reproductive management; and

12 (C) monitoring and treatment of animal populations for
13 diseases that have spread or demonstrate the potential to
14 spread to humans.

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

25 Section 3. Applicability to volunteer health

1 practitioners. This Act applies to volunteer health
2 practitioners registered with a registration system that
3 complies with Section 5 and who provide health or veterinary
4 services in this State for a host entity or disaster relief
5 organization while an emergency declaration is in effect.

6 Section 4. Regulation of services during emergency.

7 (a) While a disaster proclamation under the Illinois
8 Emergency Management Agency Act is in effect, the Illinois
9 Emergency Management Agency may limit, restrict, or otherwise
10 regulate:

11 (1) the duration of practice by volunteer health
12 practitioners;

13 (2) the geographical areas in which volunteer health
14 practitioners may practice;

15 (3) the types of volunteer health practitioners who may
16 practice; and

17 (4) any other matters necessary to coordinate
18 effectively the provision of health or veterinary services
19 during the emergency.

20 (b) An order issued pursuant to subsection (a) may take
21 effect immediately, without prior notice or comment, and is not
22 a rule within the meaning of the Illinois Administrative
23 Procedure Act.

24 (c) A host entity or disaster relief organization that uses
25 volunteer health practitioners to provide health or veterinary

1 services in this State shall:

2 (1) consult and coordinate its activities with the
3 Illinois Emergency Management Agency to the extent
4 practicable to provide for the efficient and effective use
5 of volunteer health practitioners; and

6 (2) comply with any laws relating to the management of
7 emergency health or veterinary services.

8 Section 5. Volunteer Health Practitioner Registration
9 Systems.

10 (a) To qualify as a volunteer health practitioner
11 registration system, a system must:

12 (1) accept applications for the registration of
13 volunteer health practitioners before or during an
14 emergency;

15 (2) include information about the licensure and good
16 standing of health practitioners which is accessible by
17 authorized persons;

18 (3) be capable of confirming the accuracy of
19 information concerning whether a health practitioner is
20 licensed and in good standing before health services or
21 veterinary services are provided under this Act; and

22 (4) meet one of the following conditions:

23 (A) be an emergency system for advance
24 registration of volunteer health-care practitioners
25 established by a state and funded through the

1 Department of Health and Human Services under Section
2 319I of the Public Health Services Act, 42 U.S.C.
3 Section 247d-7b (as amended);

4 (B) be a local unit consisting of trained and
5 equipped emergency response, public health, and
6 medical personnel formed pursuant to Section 2801 of
7 the Public Health Services Act, 42 U.S.C. Section 300hh
8 (as amended);

9 (C) be operated by a:

10 (i) disaster relief organization;

11 (ii) licensing board;

12 (iii) national or regional association of
13 licensing boards or health practitioners;

14 (iv) health facility that provides
15 comprehensive inpatient and outpatient health-care
16 services, including a tertiary care, teaching
17 hospital, or ambulatory surgical treatment center;
18 or

19 (v) governmental entity; or

20 (D) be designated by the Department of Public
21 Health as a registration system for purposes of this
22 Act.

23 (b) While an emergency declaration is in effect, the
24 Department of Public Health, a person authorized to act on
25 behalf of the Department of Public Health, or a host entity or
26 disaster relief organization, may confirm whether volunteer

1 health practitioners utilized in this State are registered with
2 a registration system that complies with subsection (a).
3 Confirmation is limited to obtaining identities of the
4 practitioners from the system and determining whether the
5 system indicates that the practitioners are licensed and in
6 good standing.

7 (c) Upon request of a person in this State authorized under
8 subsection (b), or a similarly authorized person in another
9 state, a registration system located in this State shall notify
10 the person of the identities of volunteer health practitioners
11 and whether the practitioners are licensed and in good
12 standing.

13 (d) A host entity or disaster relief organization is not
14 required to use the services of a volunteer health practitioner
15 even if the practitioner is registered with a registration
16 system that indicates that the practitioner is licensed and in
17 good standing.

18 Section 6. Recognition of volunteer health practitioners
19 licensed in other states.

20 (a) While an emergency declaration is in effect, a
21 volunteer health practitioner, registered with a registration
22 system that complies with Section 5 and licensed and in good
23 standing in the state upon which the practitioner's
24 registration is based, may practice in this State to the extent
25 authorized by this Act as if the practitioner were licensed in

1 this State.

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

8 Section 7. No effect on credentialing and privileging.

9 (a) In this Section:

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

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

21 (b) This Act does not affect credentialing or privileging
22 standards of a health facility and does not preclude a health
23 facility from waiving or modifying those standards while an
24 emergency declaration is in effect.

1 Section 8. Provision of volunteer health or veterinary
2 services; administrative sanctions.

3 (a) Subject to subsections (b) and (c), a volunteer health
4 practitioner shall adhere to the scope of practice for a
5 similarly licensed practitioner established by the licensing
6 provisions, practice Acts, or other laws of this State.

7 (b) Except as otherwise provided in subsection (c), this
8 Act does not authorize a volunteer health practitioner to
9 provide services that are outside the practitioner's scope of
10 practice, even if a similarly licensed practitioner in this
11 State would be permitted to provide the services.

12 (c) Consistent with the Department of Professional
13 Regulation Law of the Civil Administrative Code of Illinois and
14 the Department of Public Health Powers and Duties Law of the
15 Civil Administrative Code of Illinois, the Illinois Emergency
16 Management Agency, the Department of Financial and
17 Professional Regulation, or the Department of Public Health may
18 modify or restrict the health or veterinary services that
19 volunteer health practitioners may provide pursuant to this Act
20 during an emergency. A proclamation under this subsection may
21 take effect immediately, without prior notice or comment, and
22 is not a rule within the meaning of the Illinois Administrative
23 Procedure Act.

24 (d) A host entity or disaster relief organization may
25 restrict the health or veterinary services that a volunteer
26 health practitioner may provide pursuant to this Act.

1 (e) A volunteer health practitioner does not engage in
2 unauthorized practice unless the practitioner has reason to
3 know of any limitation, modification, or restriction under this
4 Section or that a similarly licensed practitioner in this State
5 would not be permitted to provide the services. A volunteer
6 health practitioner has reason to know of a limitation,
7 modification, or restriction or that a similarly licensed
8 practitioner in this State would not be permitted to provide a
9 service if: (1) the practitioner knows the limitation,
10 modification, or restriction exists or that a similarly
11 licensed practitioner in this State would not be permitted to
12 provide the service; or (2) from all the facts and
13 circumstances known to the practitioner at the relevant time, a
14 reasonable person would conclude that the limitation,
15 modification, or restriction exists or that a similarly
16 licensed practitioner in this State would not be permitted to
17 provide the service.

18 (f) In addition to the authority granted by law of this
19 State to regulate the conduct of health practitioners, a
20 licensing board or other disciplinary authority in this State:

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

24 (2) may impose administrative sanctions upon a
25 practitioner not licensed in this State for conduct in this
26 State in response to an in-state emergency; and

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

6 (g) In determining whether to impose administrative
7 sanctions under subsection (f), a licensing board or other
8 disciplinary authority shall consider the circumstances in
9 which the conduct took place, including any exigent
10 circumstances, and the practitioner's scope of practice,
11 education, training, experience, and specialized skill.

12 Section 9. Relation to other laws.

13 (a) This Act does not limit rights, privileges, or
14 immunities provided to volunteer health practitioners by laws
15 other than this Act. Except as otherwise provided in subsection
16 (b), this Act does not affect requirements for the use of
17 health practitioners pursuant to the Emergency Management
18 Assistance Compact.

19 (b) The Illinois Emergency Management Agency, pursuant to
20 any mutual aid compacts entered into by this State, may
21 incorporate into the emergency forces of this State volunteer
22 health practitioners who are not officers or employees of this
23 State, a political subdivision of this State, or a municipality
24 or other local government within this State.

1 Section 10. Regulatory authority. The Illinois Emergency
2 Management Agency may implement this Act. The Illinois
3 Emergency Management Agency shall consult with and consider the
4 recommendations of the entity established to coordinate the
5 implementation of the Emergency Management Assistance Compact
6 and shall also consult with and consider rules promulgated by
7 similarly empowered agencies in other states to promote
8 uniformity of application of this Act and make the emergency
9 response systems in the various states reasonably compatible.

10 Section 11. Workers' compensation coverage. A volunteer
11 health practitioner providing health or veterinary services
12 pursuant to this Act may be considered a volunteer in
13 accordance with subsection (k) of Section 10 of the Illinois
14 Emergency Management Act for the purposes of worker's
15 compensation coverage.

16 Section 12. Uniformity of application and construction. In
17 applying and construing this uniform act, consideration must be
18 given to the need to promote uniformity of the law with respect
19 to its subject matter among states that enact it.

20 Section 900. The Department of Professional Regulation Law
21 of the Civil Administrative Code of Illinois is amended by
22 changing Section 2105-400 as follows:

1 (20 ILCS 2105/2105-400)

2 Sec. 2105-400. Emergency Powers.

3 (a) Upon proclamation of a disaster by the Governor, as
4 provided for in the Illinois Emergency Management Agency Act,
5 the Secretary of Financial and Professional Regulation shall
6 have the following powers, which shall be exercised only in
7 coordination with the Illinois Emergency Management Agency and
8 the Department of Public Health:

9 (1) The power to suspend the requirements for permanent
10 or temporary licensure of persons who are licensed in
11 another state and are working under the direction of the
12 Illinois Emergency Management Agency and the Department of
13 Public Health pursuant to a declared disaster.

14 (2) The power to modify the scope of practice
15 restrictions under any licensing act administered by the
16 Department for any person working under the direction of
17 the Illinois Emergency Management Agency and the Illinois
18 Department of Public Health pursuant to the declared
19 disaster.

20 (3) The power to expand the exemption in Section 4(a)
21 of the Pharmacy Practice Act to those licensed
22 professionals whose scope of practice has been modified,
23 under paragraph (2) of subsection (a) of this Section, to
24 include any element of the practice of pharmacy as defined
25 in the Pharmacy Practice Act for any person working under
26 the direction of the Illinois Emergency Management Agency

1 and the Illinois Department of Public Health pursuant to
2 the declared disaster.

3 (4) The power to request the services of emergency
4 volunteer health practitioners registered with an approved
5 registration system created under the Uniform Emergency
6 Volunteer Health Practitioners Act.

7 (b) Persons exempt from licensure under paragraph (1) of
8 subsection (a) of this Section and persons operating under
9 modified scope of practice provisions under paragraph (2) of
10 subsection (a) of this Section shall be exempt from licensure
11 or be subject to modified scope of practice only until the
12 declared disaster has ended as provided by law. For purposes of
13 this Section, persons working under the direction of an
14 emergency services and disaster agency accredited by the
15 Illinois Emergency Management Agency and a local public health
16 department, pursuant to a declared disaster, shall be deemed to
17 be working under the direction of the Illinois Emergency
18 Management Agency and the Department of Public Health.

19 (c) The Director shall exercise these powers by way of
20 proclamation.

21 (Source: P.A. 94-733, eff. 4-27-06; 95-689, eff. 10-29-07.)