

## Chapter 49 Uniform Emergency Volunteer Health Practitioners Act

### Part 1 General Provisions

#### **26-49-101 Title.**

This chapter is known as the "Uniform Emergency Volunteer Health Practitioners Act."

Enacted by Chapter 242, 2008 General Session

#### **26-49-102 Definitions.**

As used in this chapter:

- (1) "Department of Health" shall have the meaning provided for in Section 26-1-4.
- (2) "Disaster relief organization" means an entity that:
  - (a) provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners;
  - (b) is designated or recognized as a provider of the services described in Subsection (2)(a) under a disaster response and recovery plan adopted by:
    - (i) an agency of the federal government;
    - (ii) the state Department of Health; or
    - (iii) a local health department; and
  - (c) regularly plans and conducts its activities in coordination with:
    - (i) an agency of the federal government;
    - (ii) the Department of Health; or
    - (iii) a local health department.
- (3) "Emergency" means a "state of emergency" as defined in Section 53-2a-203.
- (4) "Emergency declaration" means a declaration made in accordance with Section 53-2a-206 or 53-2a-208.
- (5) "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.
- (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 Utah law or another state to provide health or veterinary services.
- (9) "Health services" means the provision of treatment, care, advice, guidance, 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; or
    - (ii) counseling, assessment, procedures, or other services;
  - (b) selling or dispensing 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":
  - (a) means an entity operating in Utah that:
    - (i) uses volunteer health practitioners to respond to an emergency; and
    - (ii) is responsible during an emergency, for actually delivering health services to individuals or human populations, or veterinary services to animals or animal populations; and
  - (b) may include disaster relief organizations, hospitals, clinics, emergency shelters, health care provider offices, or any other place where volunteer health practitioners may provide health or veterinary services.
- (11)
  - (a) "License" means authorization by a state to engage in health or veterinary services that are unlawful without authorization.
  - (b) "License" includes authorization under this title to an individual to provide health or veterinary services based upon a national or state certification issued by a public or private entity.
- (12) "Local health department" shall have the meaning provided for in Subsection 26A-1-102(5).
- (13) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (14) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.
- (15) "State" means:
  - (a) a state of the United States;
  - (b) the District of Columbia;
  - (c) Puerto Rico;
  - (d) the United States Virgin Islands; or
  - (e) any territory or insular possession subject to the jurisdiction of the United States.
- (16) "Veterinary services" shall have the meaning provided for in Subsection 58-28-102(11).
- (17)
  - (a) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.
  - (b) "Volunteer health practitioner" does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Utah, unless the practitioner is:
    - (i) not a Utah resident; and
    - (ii) employed by a disaster relief organization providing services in Utah while an emergency declaration is in effect.

Amended by Chapter 295, 2013 General Session

**26-49-103 Applicability to volunteer health practitioners.**

This chapter applies to volunteer health practitioners who:

- (1) are registered with a registration system that complies with Section 26-49-202; and
- (2) provide health or veterinary services in Utah for a host entity while an emergency declaration is in effect.

Enacted by Chapter 242, 2008 General Session

**Part 2**  
**Regulation, Registration, and Licensing of Volunteer**  
**Health Practitioners - Administrative Sanctions**

**26-49-201 Regulation of services during emergency.**

- (1) While an emergency declaration is in effect, the Department of Health or a local health department may limit, restrict, or otherwise regulate:
  - (a) the duration of practice by volunteer health practitioners;
  - (b) the geographical areas in which volunteer health practitioners may practice;
  - (c) the types of volunteer health practitioners who may practice; and
  - (d) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.
- (2) An order issued under Subsection (1) takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or an adjudication within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.
- (3) A host entity that uses volunteer health practitioners to provide health or veterinary services in Utah shall:
  - (a) to the extent practicable and in order to provide for the efficient and effective use of volunteer health practitioners, consult and coordinate its activities with:
    - (i) the Department of Health;
    - (ii) local health departments; or
    - (iii) the Utah Department of Agriculture and Food;
  - (b) comply with all state and federal laws relating to the management of emergency health or veterinary services.

Enacted by Chapter 242, 2008 General Session

**26-49-202 Volunteer health practitioner registration systems.**

- (1) To qualify as a volunteer health practitioner registration system, the registration system shall:
  - (a) accept applications for the registration of volunteer health practitioners before or during an emergency;
  - (b) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;
  - (c) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and
  - (d) meet one of the following conditions:
    - (i) be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Services Act, 42 U.S.C. Sec. 247d-7b, as amended;
    - (ii) be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under Section 2801 of the Public Health Services Act, 42 U.S.C. Sec. 300hh as amended;
    - (iii) be operated by a:

- (A) disaster relief organization;
  - (B) licensing board;
  - (C) national or regional association of licensing boards or health practitioners;
  - (D) health facility that provides comprehensive inpatient and outpatient healthcare services, including tertiary care; or
  - (E) governmental entity; or
- (iv) be designated by the Department of Health as a registration system for purposes of this chapter.
- (2)
- (a) Subject to Subsection (2)(b), while an emergency declaration is in effect, the Department of Health, a person authorized to act on behalf of the Department of Health, or a host entity shall confirm whether a volunteer health practitioner in Utah is registered with a registration system that complies with Subsection (1).
  - (b) The confirmation authorized under this Subsection (2) is limited to obtaining the identity of the practitioner from the system and determining whether the system indicates that the practitioner is licensed and in good standing.
- (3) Upon request of a person authorized under Subsection (2), or a similarly authorized person in another state, a registration system located in Utah shall notify the person of the identity of a volunteer health practitioner and whether or not the volunteer health practitioner is licensed and in good standing.
- (4) A host entity is not required to use the services of a volunteer health practitioner even if the volunteer health practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

Amended by Chapter 297, 2011 General Session

**26-49-203 Recognition of volunteer health practitioners licensed in other states.**

- (1) While an emergency declaration is in effect, a volunteer health practitioner registered with a registration system that complies with Section 26-49-202 and licensed and in good standing in the state upon which the practitioner's registration is based:
- (a) may practice in Utah to the extent authorized by this chapter as if the practitioner were licensed in Utah; and
  - (b) is exempt from:
    - (i) licensure in Utah; or
    - (ii) operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5).
- (2) A volunteer health practitioner qualified under Subsection (1) is not entitled to the protections of this chapter if the practitioner is licensed in more than one state and any license of the practitioner:
- (a) is suspended, revoked, or subject to an agency order limiting or restricting practice privileges; or
  - (b) has been voluntarily terminated under threat of sanction.

Enacted by Chapter 242, 2008 General Session

**26-49-204 No effect on credentialing and privileging.**

- (1) For purposes of this section:

- (a) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services.
  - (b) "Privileging" means the authorizing by an appropriate authority of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.
- (2) This chapter does not affect credentialing or privileging standards of a health facility, and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Enacted by Chapter 242, 2008 General Session

**26-49-205 Provision of volunteer health or veterinary services -- Administrative sanctions -- Authority of Division of Occupational and Professional Licensing.**

- (1) Subject to Subsections (2) and (3), a volunteer health practitioner shall comply with the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other Utah laws.
- (2) Except as otherwise provided in Subsection (3), this chapter does not authorize a volunteer health practitioner to provide services that are outside the volunteer health practitioner's scope of practice, even if a similarly licensed practitioner in Utah would be permitted to provide the services.
- (3)
  - (a) In accordance with this section and Section 58-1-405, the Division of Occupational and Professional Licensing may issue an order modifying or restricting the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter.
  - (b) An order under this subsection takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or a directive within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.
- (4) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter.
- (5)
  - (a) A volunteer health practitioner does not engage in unauthorized practice unless the volunteer health practitioner has reason to know of any limitation, modification, or restriction under this chapter, Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, or that a similarly licensed practitioner in Utah would not be permitted to provide the services.
  - (b) A volunteer health practitioner has reason to know of a limitation, modification, or restriction, or that a similarly licensed practitioner in Utah would not be permitted to provide a service, if:
    - (i) the volunteer health practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Utah would not be permitted to provide the service; or
    - (ii) from all the facts and circumstances known to the volunteer health practitioner at the relevant time, a reasonable person would conclude that:
      - (A) the limitation, modification, or restriction exists; or
      - (B) a similarly licensed practitioner in Utah would not be permitted to provide the service.
- (6) In addition to the authority granted by law of Utah other than this chapter to regulate the conduct of volunteer health practitioners, the Division of Occupational and Professional Licensing Act or other disciplinary authority in Utah:
  - (a) may impose administrative sanctions upon a volunteer health practitioner licensed in Utah for conduct outside of Utah in response to an out-of-state emergency;

- (b) may impose administrative sanctions upon a volunteer health practitioner not licensed in Utah for conduct in Utah in response to an in-state emergency; and
  - (c) shall report any administrative sanctions imposed upon a volunteer health practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the volunteer health practitioner is known to be licensed.
- (7) In determining whether or not to impose administrative sanctions under Subsection (6), the Division of Occupational and Professional Licensing Act or other disciplinary authority shall consider the circumstances in which the conduct took place, including:
- (a) any exigent circumstances; and
  - (b) the volunteer health practitioner's scope of practice, education, training, experience, and specialized skill.

Enacted by Chapter 242, 2008 General Session

### **Part 3 Relation to Other Laws**

#### **26-49-301 Relation to other laws.**

- (1)
- (a) This chapter does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter.
  - (b) Except as otherwise provided in Subsection (2), this chapter does not affect requirements for the use of health practitioners pursuant to Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.
- (2) An authorized representative of a party state may incorporate volunteer health practitioners into the emergency forces of Utah even if those volunteer health practitioners are not officers or employees of Utah, a political subdivision of Utah, or a municipality or other local government within Utah.

Enacted by Chapter 242, 2008 General Session

### **Part 4 Regulatory Authority**

#### **26-49-401 Regulatory authority.**

- (1) The Department of Health shall make rules by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Before adopting rules under Subsection (1), the Department of Health shall consult and consider:
- (a) the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact; and
  - (b) rules adopted by similarly empowered agencies in other states in order to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

Enacted by Chapter 242, 2008 General Session

## **Part 5 Limitations on Civil Liability**

### **26-49-501 Limitations on civil liability for volunteer health practitioners.**

Volunteer health practitioners who provide health or veterinary services pursuant to this chapter are immune from liability and civil damages as set forth in Section 58-13-2.

Enacted by Chapter 242, 2008 General Session

## **Part 6 Workers' Compensation Coverage**

### **26-49-601 Workers' compensation coverage.**

- (1) For purposes of this section, "injury" means a physical or mental injury or disease for which an employee of Utah who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under Title 34A, Chapter 2, Workers' Compensation Act.
- (2) A volunteer health practitioner is considered a state employee for purposes of receiving workers' compensation medical benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.
- (3) The state shall provide workers' compensation benefits for a volunteer health practitioner under:
  - (a) Title 34A, Chapter 2, Workers' Compensation Act; and
  - (b) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (4)
  - (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (3) are the exclusive remedy against the state or an officer, agent, or employee of the state, for all injuries and occupational diseases resulting from the volunteer health practitioner's services for the state.
  - (b) For purposes of Subsection (4)(a), the state is considered the employer of the volunteer health practitioner.
- (5) To compute the workers' compensation benefits for a volunteer health practitioner described in Subsection (3), the average weekly wage of the volunteer health practitioner shall be the state's average weekly wage at the time of the emergency that is the basis for the volunteer health practitioner's workers' compensation claim.
- (6)
  - (a) The Labor Commission shall:
    - (i) adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death by volunteer health practitioners who reside in other states; and
    - (ii) consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states to promote uniformity of application of this chapter with other states that enact similar legislation.

- (b) The Labor Commission may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the volunteer health practitioners.

Enacted by Chapter 242, 2008 General Session

**Part 7**  
**Uniformity of Application and Construction**

**26-49-701 Uniformity of application and construction.**

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Amended by Chapter 297, 2011 General Session