

MEDICAL RESERVE CORPS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Fred R. Hunsaker

LONG TITLE

General Description:

This bill authorizes the local departments of health to create and activate a medical reserve corps during times of an emergency or national disaster.

Highlighted Provisions:

This bill:

- ▶ authorizes the local department of health to organize, activate, and supervise a medical reserve corps during a time of declared public health emergency or disaster;
- ▶ amends the Occupational and Professional Practices Act to permit retired health care professionals to serve in a medical reserve corps during a time of disaster or emergency; and
- ▶ clarifies that the Good Samaritan laws apply to health care professionals who volunteer during a declared emergency or disaster.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-307, as last amended by Chapters 156 and 280, Laws of Utah 2004

58-13-2, as last amended by Chapter 3, Laws of Utah 2003

ENACTS:

26A-1-126, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26A-1-126** is enacted to read:

26A-1-126. Medical reserve corps.

(1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.

(2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health related activities.

(3) When an emergency has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency.

(4) For purposes of this section, a medical reserve corps may include persons who:

(a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;

(b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and

(c) within the ten years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.

(5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declared emergency.

(b) A person operating as a member of an activated medical reserve corps under this section:

(i) must be volunteering for and supervised by the local health department;

(ii) must comply with the provisions of this section;

(iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

(iv) must carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency.

(6) The local department of health may access the Division of Occupational and Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.

(7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Occupational and Professional Licensing.

Section 2. Section **58-1-307** is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following persons may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) a person serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the person holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified persons;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods;

(j) an individual who:

(i) is certified as an athletic trainer by the National Athletic Trainers Association Board of Certification or another entity approved by the division;

(ii) is employed or officially associated with an educational institution, a professional sports organization, or a bona fide amateur sports organization; and

(iii) only provides athletic training services:

(A) to athletes of the educational institution or sports organization to which the

individual is employed or officially associated;

(B) at an official athletic training, practice, or competition site; and

(C) that are within the scope of the individual's certification; and

(k) a law enforcement officer, as defined under Section 53-13-103, who:

(i) is operating a voice stress analyzer in the course of the officer's full-time employment with a federal, state, or local law enforcement agency;

(ii) has completed the manufacturer's training course and is certified by the manufacturer to operate that voice stress analyzer; and

(iii) is operating the voice stress analyzer in accordance with Section 58-64-601, regarding deception detection instruments.

(2) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice. Violation of any limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of persons who are licensed in another state. Persons exempt under this Subsection (4)(a) shall be exempt from licensure for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5),

the scope of practice restrictions under this title for persons who are licensed under this title as:

- (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;
- (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure Compact;
- (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;
- (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;
- (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and
- (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be certified under Section 26-8a-302; ~~and~~

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures[-]; and

(e) exempt or modify the requirement for licensure of a person who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126.

(5) Persons exempt under Subsection (4)(c) and persons operating under modified scope of practice provisions under Subsection (4)(b):

(a) shall be exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for a local or state department of health.

Section 3. Section **58-13-2** is amended to read:

58-13-2. Emergency care rendered by licensee.

(1) A person licensed under Title 58, Occupations and Professions, to practice as any of the following health care professionals, who is under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care:

- (a) osteopathic physician;
- (b) physician and surgeon;
- (c) naturopathic physician;
- (d) dentist or dental hygienist;
- (e) chiropractic physician;
- (f) physician assistant;
- (g) optometrist;
- (h) nurse licensed under Section 58-31b-301 or 58-31c-102;
- (i) podiatrist;
- (j) certified nurse midwife;
- (k) respiratory therapist; or
- (l) pharmacist, pharmacy technician, and pharmacy intern.

(2) ~~(a)~~ This Subsection (2) applies to health care professionals:

(a) (i) described in Subsection (1); and

(ii) who are under no legal duty to respond to the circumstances described in Subsection ~~(2)(b)~~ (3); or

(b) who are activated as a member of a medical reserve corps as described in Section 26A-1-126 during the time of an emergency as provided in Section 26A-1-126; and

~~(iii)~~ (c) (i) who are acting within the scope of the health care professional's license, or within the scope of practice as modified under Subsection 58-1-307(4) or Section 26A-1-126;
and

~~(iv)~~ (ii) who are acting in good faith without compensation or remuneration as defined in Subsection 58-13-3(2).

~~[(b)]~~ (3) A health care professional described in Subsection (2)~~[(a)]~~ is not liable for any civil damages as a result of any acts or omissions by the health care professional in rendering care as a result of:

~~[(i)]~~ (a) implementation of measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

~~[(ii)]~~ (b) investigating and controlling suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

~~[(iii)]~~ (c) responding to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

~~[(3)]~~ (4) The immunity in Subsection ~~[(2)]~~ (3) is in addition to any immunity or protection in state or federal law that may apply.

(5) For purposes of Subsection (2)(c)(ii) remuneration does not include:

(a) food supplied to the volunteer;

(b) clothing supplied to the volunteer to help identify the volunteer during the time of the emergency; or

(c) other similar support for the volunteer.