

1 **MEDICAL RESERVE CORPS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

5

LONG TITLE

6 **General Description:**

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

9 **Highlighted Provisions:**

10 This bill:

- 11
- 12 ▶ authorizes the local department of health to organize, activate, and supervise a
 - 13 medical reserve corps during a time of declared public health emergency or disaster;
 - 14 ▶ amends the Occupational and Professional Practices Act to permit retired health
 - 15 care professionals and out-of-state health care professionals to serve in a medical
 - 16 reserve corps during a time of disaster or emergency; and
 - 17 ▶ clarifies that the Good Samaritan laws apply to health care professionals who
 - 18 volunteer during a declared emergency or disaster.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **58-1-307**, as last amended by Chapters 156 and 280, Laws of Utah 2004

26 **58-13-2**, as last amended by Chapter 3, Laws of Utah 2003

27 ENACTS:



28 **26A-1-126**, Utah Code Annotated 1953



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

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

32 **26A-1-126. Medical reserve corps.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

66 **58-1-307. Exemptions from licensure.**

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

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

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

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

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

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

89 (f) an individual licensed under the laws of this state, other than under this title, to

90 practice or engage in an occupation or profession, while engaged in the lawful, professional,
91 and competent practice of that occupation or profession;

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

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

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

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

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

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

107 (j) an individual who:

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

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

112 (iii) only provides athletic training services:

113 (A) to athletes of the educational institution or sports organization to which the
114 individual is employed or officially associated;

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

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

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

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

120 (ii) has completed the manufacturer's training course and is certified by the

121 manufacturer to operate that voice stress analyzer; and

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

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

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

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

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

141 (b) modify, under the circumstances described in this Subsection (4) and Subsection
142 (5), the scope of practice restrictions under this title for persons who are licensed under this
143 title as:

144 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
145 Osteopathic Medical Practice Act;

146 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
147 Compact;

148 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

149 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
150 Pharmacy Practice Act;

151 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and

152 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
153 Practice Act;

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

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

159 (e) exempt or modify the requirement for licensure of a person who is activated as a
160 member of a medical reserve corps during a time of emergency as provided in Section
161 26A-1-126.

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

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

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

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

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

170 **58-13-2. Emergency care rendered by licensee.**

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

176 (a) osteopathic physician;

177 (b) physician and surgeon;

178 (c) naturopathic physician;

179 (d) dentist or dental hygienist;

180 (e) chiropractic physician;

181 (f) physician assistant;

182 (g) optometrist;

183 (h) nurse licensed under Section 58-31b-301 or 58-31c-102;

184 (i) podiatrist;

185 (j) certified nurse midwife;

186 (k) respiratory therapist; or

187 (l) pharmacist, pharmacy technician, and pharmacy intern.

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

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

190 (ii) who are under no legal duty to respond to the circumstances described in

191 Subsection ~~(2)(b)~~ (3); or

192 (b) who are activated as a member of a medical reserve corps as described in Section

193 26A-1-126 during the time of an emergency as provided in Section 26A-1-126; and

194 ~~(iii)~~ (c) (i) who are acting within the scope of the health care professional's license, or

195 within the scope of practice as modified under Subsection 58-1-307(4) or Section 26A-1-126;

196 and

197 ~~(iv)~~ (ii) who are acting in good faith without compensation or remuneration as

198 defined in Subsection 58-13-3(2).

199 ~~(b)~~ (3) A health care professional described in Subsection (2)~~(a)~~ is not liable for any

200 civil damages as a result of any acts or omissions by the health care professional in rendering

201 care as a result of:

202 ~~(i)~~ (a) implementation of measures to control the causes of epidemic and

203 communicable diseases and other conditions significantly affecting the public health or

204 necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health

205 Departments;

206 ~~(ii)~~ (b) investigating and controlling suspected bioterrorism and disease as set out in

207 Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

208 ~~(iii)~~ (c) responding to a national, state, or local emergency, a public health emergency

209 as defined in Section 26-23b-102, or a declaration by the President of the United States or other

210 federal official requesting public health-related activities.

211 ~~(3)~~ (4) The immunity in Subsection ~~(2)~~ (3) is in addition to any immunity or

212 protection in state or federal law that may apply.

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

- 214 (a) food supplied to the volunteer;
- 215 (b) clothing supplied to the volunteer to help identify the volunteer during the time of
- 216 the emergency; or
- 217 (c) other similar support for the volunteer.

Legislative Review Note
as of 1-13-05 11:35 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

No fiscal impact on the State. Local health departments can handle any additional costs associated with this bill in their existing budgets.

Individual and Business Impact

In case of emergencies, individuals and businesses could receive assistance from the medical reserve corps established in this bill, which could save them from unanticipated expenses associated with the emergency.

Office of the Legislative Fiscal Analyst