

**HOUSE BILL NO. 1073**

Introduced by

Human Services Committee

(At the request of the Commission on Uniform State Laws)

1 A BILL for an Act to create and enact chapter 37-17.3 of the North Dakota Century Code,  
2 relating to adoption of the Uniform Emergency Volunteer Health Practitioners Act; and to amend  
3 and reenact subdivision b of subsection 2 of section 28-32-01 of the North Dakota Century  
4 Code, relating to application of the Administrative Agencies Practice Act.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subdivision b of subsection 2 of section 28-32-01 of the  
7 North Dakota Century Code is amended and reenacted as follows:

8 b. The adjutant general with respect to the department of emergency services,  
9 except for purposes of section 2 of this Act.

10 **SECTION 2.** Chapter 37-17.3 of the North Dakota Century Code is created and  
11 enacted as follows:

12 **37-17.3-01. Definitions.** In this chapter, unless the context otherwise requires:

13 1. "Disaster relief organization" means an entity that provides emergency or disaster  
14 relief services that include health or veterinary services provided by volunteer  
15 health practitioners and which:

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

19 b. Regularly plans and conducts its activities in coordination with an agency of  
20 the federal government or the department of emergency services.

21 2. "Emergency" means an event or condition that is a disaster or an emergency as  
22 defined under chapter 37-17.1.

23 3. "Emergency declaration" means a declaration or proclamation of disaster or  
24 emergency issued by the governor.

- 1           4. "Emergency management assistance compact" means the interstate compact  
2           approved by Congress by Public Law No. 104-321 [110 Stat. 3877].
- 3           5. "Entity" means a person other than an individual.
- 4           6. "Health facility" means an entity licensed under the laws of this or another state to  
5           provide health or veterinary services.
- 6           7. "Health practitioner" means an individual licensed under the laws of this or another  
7           state to provide health or veterinary services.
- 8           8. "Health services" means the provision of treatment, care, advice or guidance, or  
9           other services, or supplies related to the health or death of individuals or human  
10          populations, to the extent necessary to respond to an emergency, including:
- 11          a. The following, concerning the physical or mental condition or functional status  
12          of an individual or affecting the structure or function of the body:
- 13               (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or  
14               palliative care; and
- 15               (2) Counseling, assessment, procedures, or other services;
- 16          b. Sale or dispensing of a drug, a device, equipment, or another item to an  
17          individual in accordance with a prescription; and
- 18          c. Funeral, cremation, cemetery, or other mortuary services.
- 19          9. "Host entity" means an entity operating in this state which uses volunteer health  
20          practitioners to respond to an emergency.
- 21          10. "License" means authorization by a state to engage in health or veterinary services  
22          that are unlawful without the authorization. The term includes authorization under  
23          the laws of this state to an individual to provide health or veterinary services based  
24          upon a national certification issued by a public or private entity.
- 25          11. "Scope of practice" means the extent of the authorization to provide health or  
26          veterinary services granted to a health practitioner by a license issued to the  
27          practitioner in the state in which the principal part of the practitioner's services are  
28          rendered, including any conditions imposed by the licensing authority.
- 29          12. "Veterinary services" means the provision of treatment, care, advice or guidance,  
30          or other services, or supplies related to the health or death of an animal or animal  
31          populations, to the extent necessary to respond to an emergency, including:

- 1           a. Diagnosing, treating, or preventing an animal disease, injury, or other physical
- 2                     or mental condition by prescribing, administering, or dispensing vaccine,
- 3                     medicine, surgery, or therapy;
- 4           b. Using a procedure for reproductive management; and
- 5           c. Monitoring and treating animal populations for diseases that have spread or
- 6                     demonstrate the potential to spread to humans.

7       13. "Volunteer health practitioner" means a health practitioner who provides health or  
8       veterinary services, whether or not the practitioner receives compensation for  
9       those services. The term does not include a practitioner who receives  
10       compensation pursuant to a preexisting employment relationship with a host entity  
11       or affiliate which requires the practitioner to provide health services in this state,  
12       unless the practitioner is not a resident of this state and is employed by a disaster  
13       relief organization providing services in this state while an emergency declaration  
14       is in effect.

15       **37-17.3-02. Applicability to volunteer health practitioners.** This chapter applies to  
16       volunteer health practitioners registered with a registration system that complies with section  
17       37-17.3-04 and who provide health or veterinary services in this state for a host entity while an  
18       emergency declaration is in effect.

19       **37-17.3-03. Regulation of services during emergencies.**

- 20       1. While an emergency declaration is in effect, the department of emergency services  
21       may limit, restrict, or otherwise regulate:
  - 22       a. The duration of practice by volunteer health practitioners;
  - 23       b. The geographical areas in which volunteer health practitioners may practice;
  - 24       c. The types of volunteer health practitioners who may practice; and
  - 25       d. Any other matters necessary to coordinate effectively the provision of health  
26       or veterinary services during the emergency.
- 27       2. An order issued under subsection 1 may take effect immediately, without prior  
28       notice or comment, and is not a rule within the meaning of chapter 28-32.
- 29       3. A host entity that uses volunteer health practitioners to provide health or veterinary  
30       services in this state shall:

- 1           a. Consult and coordinate its activities with the department of emergency  
2                    services to the extent practicable to provide for the efficient and effective use  
3                    of volunteer health practitioners; and  
4           b. Comply with any laws other than this chapter relating to the management of  
5                    emergency health or veterinary services, including chapters 23-27 and 43-29.

6           **37-17.3-04. Volunteer health practitioner registration systems.**

- 7           1. To qualify as a volunteer health practitioner registration system, a system shall:  
8                   a. Accept applications for the registration of volunteer health practitioners before  
9                    or during an emergency;  
10                  b. Include information about the licensure and good standing of health  
11                    practitioners which is accessible by authorized persons;  
12                  c. Be capable of confirming the accuracy of information concerning whether a  
13                    health practitioner is licensed and in good standing before health services or  
14                    veterinary services are provided under this chapter; and  
15                  d. Meet one of the following conditions:  
16                    (1) Be an emergency system for advance registration of volunteer  
17                    health-care practitioners established by a state and funded through the  
18                    United States department of health and human services under section  
19                    319l of the Public Health Services Act [42 U.S.C. 247d-7b];  
20                    (2) Be a local unit consisting of trained and equipped emergency response,  
21                    public health, and medical personnel formed pursuant to section 2801  
22                    of the Public Health Services Act [42 U.S.C. 300hh];  
23                    (3) Be operated by a:  
24                    (a) Disaster relief organization;  
25                    (b) Licensing board;  
26                    (c) National or regional association of licensing boards or health  
27                    practitioners;  
28                    (d) Health facility that provides comprehensive inpatient and  
29                    outpatient health-care services, including a tertiary care and  
30                    teaching hospital; or  
31                    (e) Governmental entity; or

1                   (4) Be designated by the department of emergency services as a  
2                                   registration system for purposes of this chapter.

3           2. While an emergency declaration is in effect, the department of emergency  
4                   services, a person authorized to act on behalf of the department of emergency  
5                   services, or a host entity may confirm whether volunteer health practitioners  
6                   utilized in this state are registered with a registration system that complies with  
7                   subsection 1. Confirmation is limited to obtaining identities of the practitioners from  
8                   the system and determining whether the system indicates that the practitioners are  
9                   licensed and in good standing.

10          3. Upon request of a person in this state authorized under subsection 2, or a similarly  
11                   authorized person in another state, a registration system located in this state shall  
12                   notify the person of the identities of volunteer health practitioners and whether the  
13                   practitioners are licensed and in good standing.

14          4. A host entity is not required to use the services of a volunteer health practitioner  
15                   even if the practitioner is registered with a registration system that indicates that  
16                   the practitioner is licensed and in good standing.

17           **37-17.3-05. Recognition of volunteer health practitioners licensed in other states.**

18          1. While an emergency declaration is in effect, a volunteer health practitioner,  
19                   registered with a registration system that complies with section 37-17.3-04 and  
20                   licensed and in good standing in the state upon which the practitioner's registration  
21                   is based, may practice in this state to the extent authorized by this chapter as if the  
22                   practitioner were licensed in this state.

23          2. A volunteer health practitioner qualified under subsection 1 is not entitled to the  
24                   protections of this chapter if the practitioner is licensed in more than one state and  
25                   any license of the practitioner is suspended, revoked, or subject to an agency order  
26                   limiting or restricting practice privileges, or has been voluntarily terminated under  
27                   threat of sanction.

28           **37-17.3-06. No effect on credentialing and privileging.**

29          1. In this section:

- 1           a. "Credentialing" means obtaining, verifying, and assessing the qualifications of  
2           a health practitioner to provide treatment, care, or services in or for a health  
3           facility.
- 4           b. "Privileging" means the authorizing by an appropriate authority, such as a  
5           governing body, of a health practitioner to provide specific treatment, care, or  
6           services at a health facility subject to limits based on factors that include  
7           license, education, training, experience, competence, health status, and  
8           specialized skill.
- 9           2. This chapter does not affect credentialing or privileging standards of a health  
10           facility and does not preclude a health facility from waiving or modifying those  
11           standards while an emergency declaration is in effect.

12           **37-17.3-07. Provision of volunteer health or veterinary services - Administrative**  
13 **sanctions.**

- 14           1. Subject to subsections 2 and 3, a volunteer health practitioner shall adhere to the  
15           scope of practice for a similarly licensed practitioner established by the licensing  
16           provisions, practice acts, or other laws of this state.
- 17           2. Except as otherwise provided in subsection 3, this chapter does not authorize a  
18           volunteer health practitioner to provide services that are outside the practitioner's  
19           scope of practice, even if a similarly licensed practitioner in this state would be  
20           permitted to provide the services.
- 21           3. The department of emergency services may modify or restrict the health or  
22           veterinary services that volunteer health practitioners may provide pursuant to this  
23           chapter. An order under this subsection may take effect immediately, without prior  
24           notice or comment, and is not a rule within the meaning of chapter 28-32.
- 25           4. A host entity may restrict the health or veterinary services that a volunteer health  
26           practitioner may provide pursuant to this chapter.
- 27           5. A volunteer health practitioner does not engage in unauthorized practice unless the  
28           practitioner has reason to know of any limitation, modification, or restriction under  
29           this section or that a similarly licensed practitioner in this state would not be  
30           permitted to provide the services. A volunteer health practitioner has reason to

- 1           know of a limitation, modification, or restriction or that a similarly licensed  
2           practitioner in this state would not be permitted to provide a service if:
- 3           a.   The practitioner knows the limitation, modification, or restriction exists or that  
4           a similarly licensed practitioner in this state would not be permitted to provide  
5           the service; or
- 6           b.   From all the facts and circumstances known to the practitioner at the relevant  
7           time, a reasonable person would conclude that the limitation, modification, or  
8           restriction exists or that a similarly licensed practitioner in this state would not  
9           be permitted to provide the service.
- 10          6.   In addition to the authority granted by law of this state other than this chapter to  
11          regulate the conduct of health practitioners, a licensing board or other disciplinary  
12          authority in this state:
- 13          a.   May impose administrative sanctions upon a health practitioner licensed in  
14          this state for conduct outside of this state in response to an out-of-state  
15          emergency;
- 16          b.   May impose administrative sanctions upon a practitioner not licensed in this  
17          state for conduct in this state in response to an in-state emergency; and
- 18          c.   Shall report any administrative sanctions imposed upon a practitioner licensed  
19          in another state to the appropriate licensing board or other disciplinary  
20          authority in any other state in which the practitioner is known to be licensed.
- 21          7.   In determining whether to impose administrative sanctions under subsection 6, a  
22          licensing board or other disciplinary authority shall consider the circumstances in  
23          which the conduct took place, including any exigent circumstances, and the  
24          practitioner's scope of practice, education, training, experience, and specialized  
25          skill.
- 26          **37-17.3-08. Relation to other laws.**
- 27          1.   This chapter does not limit rights, privileges, or immunities provided to volunteer  
28          health practitioners by laws other than this chapter. Except as otherwise provided  
29          in subsection 2, this chapter does not affect requirements for the use of health  
30          practitioners pursuant to the emergency management assistance compact.

1           2. The department of emergency services, pursuant to the emergency management  
2           assistance compact, may incorporate into the emergency forces of this state  
3           volunteer health practitioners who are not officers or employees of this state, a  
4           political subdivision of this state, or a municipality or other local government within  
5           this state.

6           **37-17.3-09. Regulatory authority.** The department of emergency services may adopt  
7           rules to implement this chapter. In doing so, the department of emergency services shall  
8           consult with and consider rules adopted by similarly empowered agencies in other states to  
9           promote uniformity of application of this chapter and make the emergency response systems in  
10          the various states reasonably compatible.

11          **37-17.3-10. Limitations on civil liability for volunteer health practitioners.**

12          1. Subject to subsection 3, a volunteer health practitioner who provides health or  
13          veterinary services pursuant to this chapter is not liable for damages for an act or  
14          omission of the practitioner in providing those services.

15          2. A person is not vicariously liable for damages for an act or omission of a volunteer  
16          health practitioner if the practitioner is not liable for the damages under  
17          subsection 1.

18          3. This section does not limit the liability of a volunteer health practitioner for:  
19          a. Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;  
20          b. An intentional tort;  
21          c. Breach of contract;  
22          d. A claim asserted by a host entity or by an entity located in this or another  
23          state which employs or uses the services of the practitioner; or  
24          e. An act or omission relating to the operation of a motor vehicle, vessel, aircraft,  
25          or other vehicle.

26          4. A person that, pursuant to this chapter, operates, uses, or relies upon information  
27          provided by a volunteer health practitioner registration system is not liable for  
28          damages for an act or omission relating to that operation, use, or reliance unless  
29          the act or omission is an intentional tort or is willful misconduct or wanton, grossly  
30          negligent, reckless, or criminal conduct.

1           5. In addition to the protections provided in subsection 1, a volunteer health  
2           practitioner who provides health or veterinary services pursuant to this chapter is  
3           entitled to all the rights, privileges, or immunities provided by state laws limiting  
4           liability of volunteers, including section 23-27-04.1 and chapter 32-03.1.

5           **37-17.3-11. Workers' compensation coverage.**

6           1. In this section, "injury" means a physical or mental injury or disease for which an  
7           employee of this state who is injured or contracts the disease in the course of the  
8           employee's employment would be entitled to benefits under the workers'  
9           compensation law of this state.

10          2. A volunteer health practitioner who dies or is injured as the result of providing  
11          health or veterinary services pursuant to this chapter is deemed to be an employee  
12          of this state for the purpose of receiving benefits for the death or injury under the  
13          workers' compensation law of this state if:

14           a. The practitioner is not otherwise eligible for such benefits for the injury or  
15           death under the law of this or another state; and

16           b. The practitioner, or in the case of death the practitioner's personal  
17           representative, elects coverage under the workers' compensation law of this  
18           state by making a claim under that law.

19          3. Workforce safety and insurance shall adopt rules, enter agreements with other  
20          states, or take other measures to facilitate the receipt of benefits for injury or death  
21          under the workers' compensation law of this state by volunteer health practitioners  
22          who reside in other states, and may waive or modify requirements for filing,  
23          processing, and paying claims that unreasonably burden the practitioners. To  
24          promote uniformity of application of this chapter with other states that enact similar  
25          legislation, workforce safety and insurance shall consult with and consider the  
26          practices for filing, processing, and paying claims by agencies with similar authority  
27          in other states.