

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 and a new section to chapter 65-06 of  
2 the North Dakota Century Code, relating to adoption of the Uniform Emergency Volunteer  
3 Health Practitioners Act and workers' compensation coverage of volunteers; and to amend and  
4 reenact section 65-06-05 of the North Dakota Century Code, relating to workers' compensation  
5 coverage of volunteers.

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

7 **SECTION 1.** Chapter 37-17.3 of the North Dakota Century Code is created and  
8 enacted as follows:

9 **37-17.3-01. Definitions.** In this chapter, unless the context otherwise requires:

- 10 1. "Disaster relief organization" means an entity that provides emergency or disaster  
11 relief services that include health or veterinary services provided by volunteer  
12 health practitioners and which:
- 13 a. Is designated or recognized as a provider of those services pursuant to a  
14 disaster response and recovery plan adopted by an agency of the federal  
15 government or the state department of health; or
- 16 b. Regularly plans and conducts its activities in coordination with an agency of  
17 the federal government or the state department of health.
- 18 2. "Emergency" means an event or condition that is a disaster or an emergency as  
19 defined under chapter 37-17.1 and any event, condition, or incident for which the  
20 deployment of volunteer health practitioners is determined to be necessary by the  
21 state health officer or a local board of health.
- 22 3. "Emergency declaration" means a declaration or proclamation of disaster or  
23 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 and any other individual performing  
8           nonmedical support disaster or emergency responsibilities or duties at any place in  
9           this state subject to the order or control of, or pursuant to a request of, the state  
10           department of health or a local public health unit and deployed through the  
11           emergency system for advance registration of volunteer health professionals.
- 12           8. "Health services" means the provision of treatment, care, advice or guidance, or  
13           other services, or supplies related to the health or death of individuals or human  
14           populations, to the extent necessary to respond to an emergency, including:
- 15           a. The following, concerning the physical or mental condition or functional status  
16           of an individual or affecting the structure or function of the body:
- 17                 (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or  
18                 palliative care; and
- 19                 (2) Counseling, assessment, procedures, or other services;
- 20           b. Sale or dispensing of a drug, a device, equipment, or another item to an  
21           individual in accordance with a prescription; and
- 22           c. Funeral, cremation, cemetery, or other mortuary services.
- 23           9. "Host entity" means an entity operating in this state which uses volunteer health  
24           practitioners to respond to an emergency.
- 25           10. "License" means authorization by a state to engage in health or veterinary services  
26           that are unlawful without the authorization. The term includes authorization under  
27           the laws of this state to an individual to provide health or veterinary services based  
28           upon a national certification issued by a public or private entity.
- 29           11. "Scope of practice" means the extent of the authorization to provide health or  
30           veterinary services granted to a health practitioner by a license issued to the

1           practitioner in the state in which the principal part of the practitioner's services are  
2           rendered, including any conditions imposed by the licensing authority.

3           12. "Veterinary services" means the provision of treatment, care, advice or guidance,  
4           or other services, or supplies related to the health or death of an animal or animal  
5           populations, to the extent necessary to respond to an emergency, including:

6           a. Diagnosing, treating, or preventing an animal disease, injury, or other physical  
7           or mental condition by prescribing, administering, or dispensing vaccine,  
8           medicine, surgery, or therapy;

9           b. Using a procedure for reproductive management; and

10          c. Monitoring and treating animal populations for diseases that have spread or  
11          demonstrate the potential to spread to humans.

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

19          **37-17.3-02. Applicability to volunteer health practitioners.** This chapter applies to  
20          volunteer health practitioners registered with a registration system that complies with section  
21          37-17.3-04 and who provide health or veterinary services in this state for a host entity during an  
22          emergency.

23          **37-17.3-03. Regulation of services during emergencies.**

24          1. During an emergency, the state department of health may limit, restrict, or  
25          otherwise regulate:

26          a. The duration of practice by volunteer health practitioners;

27          b. The geographical areas in which volunteer health practitioners may practice;

28          c. The types of volunteer health practitioners who may practice; and

29          d. Any other matters necessary to coordinate effectively the provision of health  
30          or veterinary services during the emergency.

- 1           2. An order issued under subsection 1 may take effect immediately, without prior  
2           notice or comment, and is not a rule within the meaning of chapter 28-32.
- 3           3. A host entity that uses volunteer health practitioners to provide health or veterinary  
4           services in this state shall:
- 5           a. Consult and coordinate its activities with the state department of health to the  
6           extent practicable to provide for the efficient and effective use of volunteer  
7           health practitioners; and
- 8           b. Comply with any laws other than this chapter relating to the management of  
9           emergency health or veterinary services, including chapters 23-27 and 43-29.

10           **37-17.3-04. Volunteer health practitioner registration systems.**

- 11          1. In the case of a volunteer health practitioner whose principal practice is located in  
12          this state and who is licensed by a North Dakota professional board or agency, the  
13          volunteer health practitioner registration system is the emergency system for  
14          advance registration of volunteer health professionals and is maintained by the  
15          state department of health and is known as the public health emergency volunteer  
16          medical reserve corps.
- 17          2. In the case of a volunteer health practitioner who is not covered under  
18          subsection 1, the volunteer health practitioner registration system is the system  
19          established under subsection 1 or a system that qualifies under this subsection.  
20          To qualify as a volunteer health practitioner registration system under this  
21          subsection, a system must:
- 22          a. Accept applications for the registration of volunteer health practitioners before  
23          or during an emergency;
- 24          b. Include information about the licensure and good standing of health  
25          practitioners which is accessible by authorized persons;
- 26          c. Be capable of confirming the accuracy of information concerning whether a  
27          health practitioner is licensed and in good standing before health services or  
28          veterinary services are provided under this chapter; and
- 29          d. Meet one of the following conditions:
- 30               (1) Be an emergency system for advance registration of volunteer  
31               health-care practitioners established by a state and funded through the

- 1 United States department of health and human services under section  
2 319I of the Public Health Services Act [42 U.S.C. 247d-7b];
- 3 (2) Be a local unit consisting of trained and equipped emergency response,  
4 public health, and medical personnel formed pursuant to section 2801  
5 of the Public Health Services Act [42 U.S.C. 300hh]; or
- 6 (3) Be operated by a:
- 7 (a) Disaster relief organization;  
8 (b) Licensing board;  
9 (c) National or regional association of licensing boards or health  
10 practitioners;  
11 (d) Health facility that provides comprehensive inpatient and  
12 outpatient health-care services, including a tertiary care and  
13 teaching hospital; or  
14 (e) Governmental entity.
- 15 3. During an emergency, the state department of health, a person authorized to act  
16 on behalf of the state department of health, or a host entity may confirm whether  
17 volunteer health practitioners utilized in this state are registered with a registration  
18 system that complies with subsection 1 or 2. Confirmation is limited to obtaining  
19 identities of the practitioners from the system and determining whether the system  
20 indicates that the practitioners are licensed and in good standing.
- 21 4. Upon request of a person in this state authorized under subsection 3, or a similarly  
22 authorized person in another state, a registration system located in this state shall  
23 notify the person of the identities of volunteer health practitioners and whether the  
24 practitioners are licensed and in good standing.
- 25 5. A host entity is not required to use the services of a volunteer health practitioner  
26 even if the practitioner is registered with a registration system that indicates that  
27 the practitioner is licensed and in good standing.
- 28 **37-17.3-05. Recognition of volunteer health practitioners licensed in other states.**
- 29 1. During an emergency, a volunteer health practitioner, registered with a registration  
30 system that complies with section 37-17.3-04 and licensed and in good standing in  
31 the state upon which the practitioner's registration is based, may practice in this

1           state to the extent authorized by this chapter as if the practitioner were licensed in  
2           this state.

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

8           **37-17.3-06. No effect on credentialing and privileging.**

9           1. In this section:

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

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

18           2. This chapter does not affect credentialing or privileging standards of a health  
19           facility and does not preclude a health facility from waiving or modifying those  
20           standards during an emergency.

21           **37-17.3-07. Provision of volunteer health or veterinary services - Administrative**  
22 **sanctions.**

23           1. Subject to subsections 2 and 3, a volunteer health practitioner shall adhere to the  
24           scope of practice for a similarly licensed practitioner established by the licensing  
25           provisions, practice acts, or other laws of this state.

26           2. Except as otherwise provided in subsection 3, this chapter does not authorize a  
27           volunteer health practitioner to provide services that are outside the practitioner's  
28           scope of practice, even if a similarly licensed practitioner in this state would be  
29           permitted to provide the services.

30           3. The state department of health may modify or restrict the health or veterinary  
31           services that volunteer health practitioners may provide pursuant to this chapter.

- 1           An order under this subsection may take effect immediately, without prior notice or  
2           comment, and is not a rule within the meaning of chapter 28-32.
- 3           4. A host entity may restrict the health or veterinary services that a volunteer health  
4           practitioner may provide pursuant to this chapter.
- 5           5. A volunteer health practitioner does not engage in unauthorized practice unless  
6           the practitioner has reason to know of any limitation, modification, or restriction  
7           under this section or that a similarly licensed practitioner in this state would not be  
8           permitted to provide the services. A volunteer health practitioner has reason to  
9           know of a limitation, modification, or restriction or that a similarly licensed  
10           practitioner in this state would not be permitted to provide a service if:
- 11           a. The practitioner knows the limitation, modification, or restriction exists or that  
12           a similarly licensed practitioner in this state would not be permitted to provide  
13           the service; or
- 14           b. From all the facts and circumstances known to the practitioner at the relevant  
15           time, a reasonable person would conclude that the limitation, modification, or  
16           restriction exists or that a similarly licensed practitioner in this state would not  
17           be permitted to provide the service.
- 18           6. In addition to the authority granted by law of this state other than this chapter to  
19           regulate the conduct of health practitioners, a licensing board or other disciplinary  
20           authority in this state:
- 21           a. May impose administrative sanctions upon a health practitioner licensed in  
22           this state for conduct outside of this state in response to an out-of-state  
23           emergency;
- 24           b. May impose administrative sanctions upon a practitioner not licensed in this  
25           state for conduct in this state in response to an in-state emergency; and
- 26           c. Shall report any administrative sanctions imposed upon a practitioner  
27           licensed in another state to the appropriate licensing board or other  
28           disciplinary authority in any other state in which the practitioner is known to be  
29           licensed.
- 30           7. In determining whether to impose administrative sanctions under subsection 6, a  
31           licensing board or other disciplinary authority shall consider the circumstances in

1           which the conduct took place, including any exigent circumstances, and the  
2           practitioner's scope of practice, education, training, experience, and specialized  
3           skill.

4           **37-17.3-08. Relation to other laws.**

- 5           1. This chapter does not limit rights, privileges, or immunities provided to volunteer  
6           health practitioners by laws other than this chapter. Except as otherwise provided  
7           in subsection 2, this chapter does not affect requirements for the use of health  
8           practitioners pursuant to the emergency management assistance compact.  
9           2. The department of emergency services, pursuant to the emergency management  
10           assistance compact, may incorporate into the emergency forces of this state  
11           volunteer health practitioners who are not officers or employees of this state, a  
12           political subdivision of this state, or a municipality or other local government within  
13           this state.

14           **37-17.3-09. Regulatory authority.** The health council may adopt rules to implement  
15 this chapter. In doing so, the health council shall consult with and consider rules adopted by  
16 similarly empowered agencies in other states to promote uniformity of application of this  
17 chapter and make the emergency response systems in the various states reasonably  
18 compatible.

19           **37-17.3-10. Limitations on civil liability for volunteer health practitioners.**

- 20           1. Subject to subsection 3, a volunteer health practitioner who provides health or  
21           veterinary services pursuant to this chapter is not liable for damages for an act or  
22           omission of the practitioner in providing those services.  
23           2. A person is not vicariously liable for damages for an act or omission of a volunteer  
24           health practitioner if the practitioner is not liable for the damages under  
25           subsection 1.  
26           3. This section does not limit the liability of a volunteer health practitioner for:  
27           a. Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;  
28           b. An intentional tort;  
29           c. Breach of contract;  
30           d. A claim asserted by a host entity or by an entity located in this or another  
31           state which employs or uses the services of the practitioner; or

1           e. An act or omission relating to the operation of a motor vehicle, vessel, aircraft,  
2           or other vehicle.

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

8           5. In addition to the immunity provided in subsection 1, a volunteer health practitioner  
9           who provides health or veterinary services pursuant to this chapter is entitled to all  
10           the rights, privileges, or immunities provided by state laws limiting liability of  
11           volunteers.

12           **37-17.3-11. Workers' compensation coverage.**

13           1. Except as provided in subsection 2, a volunteer health practitioner who dies or is  
14           injured as the result of providing health or veterinary services as provided under  
15           this chapter is not considered to be an employee of this state for the purpose of  
16           receiving benefits under title 65 and must be treated for the purposes of North  
17           Dakota law as an individual eligible for workers' compensation or similar benefits  
18           under the law of the state in which the volunteer is qualified for service under an  
19           emergency system for advance registration of volunteer health practitioners  
20           authorized under subsection 2 of section 37-17.3-04.

21           2. A volunteer health practitioner whose principal practice is located in this state and  
22           who is licensed by a North Dakota professional board or agency who dies or is  
23           injured as a result of providing health or veterinary services as provided under this  
24           chapter is eligible for benefits as provided under title 65 if the volunteer is qualified  
25           and serving under the emergency system for advance registration of volunteer  
26           health practitioners of this state under subsection 1 of section 37-17.3-04.

27           **SECTION 2. AMENDMENT.** Section 65-06-05 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **65-06-05. Reimbursement by state for liability in excess of premiums collected.**

30 Whenever liability on claims against the fund credited to the classification of ~~volunteer~~  
31 emergency or disaster emergency volunteers and trainees or volunteer health practitioners as

1 defined under chapter 37-17.3 exceeds the amount of premiums paid into ~~such the~~ fund, such  
2 excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be  
3 reimbursed to the organization for credit to the workforce safety and insurance fund by  
4 legislative appropriation.

5 **SECTION 3.** A new section to chapter 65-06 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Uniform Emergency Volunteer Health Practitioners Act - Health practitioners.** A  
8 volunteer health practitioner under subsection 2 of section 37-17.3-11 is eligible for benefits as  
9 provided under this chapter.