

2009 HOUSE HUMAN SERVICES

HB 1073

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6887 55 min. 33 sec.

Committee Clerk Signature

Vicky Crathree

Minutes:

Chairman Weisz: We will open the hearing on HB 1073.

David Hogue, ND Senator representing District 38 and Commissioner of ND delegation of the Nation Conference of Commissioners on Uniform Laws: Senator Hogue read his testimony in support of the bill. **See attachment of Testimony #1.** Senator Hogue stated the bill facilitates the flow of medical professionals into this state in the event of an emergency. It relieves a lot of their concerns that they would otherwise have without the passage of the legislation. This bill will recognize a medical provider who is licensed in another jurisdiction and in the data base, coming to ND to practice their profession. It relieves practitioners of civil liability for coming into the state and providing their services within the scope of their profession. The legislation also provides workers' compensation coverage for those who come into the state and provide services.

Chairman Weisz: Are there any questions from the committee?

Representative Nathe: Is this very much along the same lines as how the federal government does it?

Senator Hogue: I'm not familiar with the federal and how the system works. I am aware that all 50 states were signatory to a compact and they found out that the compact is not working

the way they wanted it to. Many professionals had concerns if they were license or will they be sued for malpractice if they went into other states. The registration system the Red Cross had just didn't work.

Representative Nathe: When the governor declares the emergency, can just anybody come into the state or do you have to go through another agency?

Senator Hogue: They have to be registered. There will be a centralized registration system. Can't register unless licensed in some other state.

Chairman Weisz: In this registration system on page 4. What happens if ND has a disaster and someone from SD would like to come here, but not on the register. How quick can they get on the register?

Senator Hogue: Going through that registration is less cumbersome then trying to be licensed by the ND medical board or dental board.

Representative Porter: On the workforce safety portion on page 9, they talk about a mental injury. Is that putting our fund at too large of a risk? Were those concerns talked about? Fiscal note says there's no way to know the impact of the funds.

Senator Hogue: I can't speak on the fiscal side of this.

Representative Kilichowski: How many other states have adopted this and how many working at it now and do they all include worker's compensation?

Senator Hogue: I don't know the answer to your second question, but about 14 states that either have adopted it or are proposing it. That was as of 2008. Don't know how many are proposing it in 2009.

Representative Uglem: This will protect professionals from ND that go to another state? Does that apply if that state has not adopted this uniform law?

Senator Hogue: I don't believe it does.

Senator Uglem: Thank you.

Chairman **Weisz:** Further questions? Thank you senator.

Nancy Kopp, representing ND Veterinary Medical Association and ND Optometric

Association: testified in support of the bill. There are provisions in the ND Veterinary Medical Practice Act as well as the Optometric Medical Practice Act that do provide license mobility for 30 days for the out of state licensed veterinarians and optometrists.

Chairman Weisz: Any questions from the committee? Thank you very much.

Tim Wahlin, with Workers' Safety Insurance: Talked about amendments. Addressed Representative Porter's earlier questions with respect to compensabilities. We are not changing the definition of compensability to include mental conditions that don't arrive to other physical injuries. Another amendment refers back to section 3 to 65-06-05. That is the portion of compensation law that deals with volunteer firefighters and volunteers responding to emergencies. Clarifies this new class of volunteers will also fall within that group so we have the ability to make the risk charge and eventually get this objective if claims come in, it allows the funds to (inaudible).

Representative Porter: Wanted to know if a surgeon comes into the state in a disaster situation and has a high salary and injures himself, what would his potential risk to the fund because of that injury?

Tim Wahlin: On page 9 of the bill, 37-17.3-11, Workers' compensation coverage, the benefit structure is capped at 125% of the state's average weekly wage. There is a cap beyond where you cannot collect.

Representative Porter: In order for that person to get into the fund, they have to elect into the fund upon coming into the state, not automatically into the fund by coming into the state responding to the disaster?

Tim Wahlin: They would have to file for benefits in ND if they were injured and if that was the mode in which they would want to receive benefits. The first portion of that would say the benefits were not available with that injury under another state. If they came from SD into ND they would elect the SD benefit. If the SD benefit were not available to them, they could elect ND benefits.

Representative Porter: Can we look at putting something into this Act that if they already have coverage, whether workers' comp or a private policy, they are not eligible then for reimbursement from workforce safety and if we don't do this, is there a possibility that they would be able to double dip?

Tim Wahlin: ND Workers' Compensation ignores it if a disability policy. If solely funded by an employer, we will look at using that against because we view that as an employer contribution. Could it be written differently? Certainly.

Chairman Weisz: If they qualify for SD they can't collect from ND, correct?

Tim Wahlin: That is my understanding.

Representative Nathe: What happens if people from SD come to ND to help with a disaster and the federal government is also managing the disaster?

Tim Wahlin: Likely they will be covered under the ND law. One exception that comes to mind is if the federal government activates the National Guard, I believe then the coverage from the federal will cover those guard participants. If state activation, we would cover them.

Chairman Weisz: Thank you very much.

Dean Haas, General Counsel to the ND Medical Association: testified in support of the bill.

See attached Testimony #2.

Chairman Weisz: You brought up scope of practice and no consequences. Liability of worker's comp and (inaudible) correct?

Dean Hass: Volunteer is immune from liability as long as they act in scope of their state's licensing, unless it is a breach of contract or they do something wrong intentionally.

Chairman Weisz: Thank you. Any neutral testimony?

Tim Wiedrich, section chief of the ND Department of Health's Emergency Preparedness and Response Section. Tim Wiedrich stated testimony to provide information on the bill.

See attached Testimony #3.

Chairman Weisz: Questions from the committee? Tim, I don't see anything that would preclude making the current (inaudible) is that the way you read it? Are you just concerned that it's going in a different direction?

Tim Wiedrich: I agree that our current registration process would meet this definition. Stated concerns again as in testimony.

Chairman Weisz: (inaudible) can't see where it is automatically set up multitude (inaudible).

Tim Wiedrich: I completely agree.

Chairman Weisz: Why don't you expand a little bit on improving public health and what you mean by that?

Tim Wiedrich: This is purposefully flexible (inaudible) we need to bring outside sources into the state for a public health event.

Representative Nathe: Do they register right through your office within your department?

Tim Wiedrich: That is correct. About 3,000 folks have raised their hand and said, include me in. Over 400 nurses and 28 physicians.

Chairman Weisz: Do you have out of state?

Tim Wiedrich: No, this is ND registered.

Representative Nathe: When they register, do you do background checks on them and is that done by the association they belong to.

Tim Wiedrich: The federal requirements actually specify what we do and it is pretty rigorous. We have to validate and verify the employment status and the credentials. We don't do background checks, we check the attorney general's sex offender website. Federal requirement is that you do this check every 6 months.

Chairman Weisz: How long does the process take before they can come and enjoy the benefits they get from this legislation?

Tim Wiedrich: The current process is that we rely on EMAC. We can turn around quickly if they are registered. We are receiving uploaded information from licensing boards into a central register. Very short turn around time.

Chairman Conrad: Is this bill a duplication?

Tim Wiedrich: I think there is merit in consolidating all of this information in one area. If our concerns can be met as laid out in testimony, it would be very complimentary to (inaudible).

Representative Conrad: Who determines if we have a public health event?

Tim Wiedrich: There are two levels. Governor's declaration and health officer.

Representative Conrad: (inaudible)

Tim Wiedrich: I would not encourage that.

Representative Conrad: Could you give us language then that could define that.

Tim Wiedrich: Be happy to (inaudible).

Representative Porter: What could EMAC and the responsibility on the worker's comp went back to each state that sends an individual out? Is the worker's comp coverage part of this act necessary? Is it a duplication?

Tim Wiedrich: From my perspective, those mechanisms already exist and is a workable format.

Representative Porter: Is there a part in the EMAC contract that is already written that each state shall provide workers' compensation coverage for someone they are sending in as part of an EMAC declared situation?

Tim Wiedrich: That is correct.

Representative Porter: Would a situation ever arrive where this law would be utilized that an EMAC response would also be in conjunction or could there be just an EMAC situation?

Tim Wiedrich: I don't believe there will be things that will fall outside of those two perimeters.

Chairman Weisz: Just to clarify, you mentioned that you don't do the registrations outside of the state. Do you have the authority to expand the data base to take volunteers outside of the state currently?

Tim Wiedrich: People in Moorhead are in the existing system. We have not expanded to include a physician in California that might what to (inaudible).

Chairman Weisz: Thank you very much.

Greg Wilz, Deputy Director Department of Emergency Services and Director of Homeland Security for ND: stated his testimony was to provide background information from the perspective of NDDDES relating to HB 1073. **See attached Testimony #4.**

The Department of Emergency Services are responsible for the planning and operational resources required to support emergency events, but we are not the agency that should be tied to anything that deals with a level of expertise that is needed in the medical arena. The responsibilities that are tagged to the agency within the bill really need to be placed with another agency that similar type systems.

Chairman Weisz: Thank you Greg are there any questions from the committee? Anyone here in opposition to HB 1073? If not, we will close the hearing on HB 1073.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6943 1 min. 47 sec.

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz: Let's take up HB 1073 that has to do with volunteer emergency services.

There is a lot of issues involved in this one so I'm going appoint a subcommittee to take a look at it. The subcommittee will consist of Representative Porter, Representative Nathe, and

Representative Kilichowski. If the committee has any concerns or questions, talk to those three and let them know. The subcommittee will schedule a meeting and announce it, so anybody can show up that wants to and they can ask anybody to appear that they need to get further information.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1073.**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **January 20, 2009**

Recorder Job Number: 7372

Committee Clerk Signature



Minutes:

Subcommittee on HB 1073: Chairman Porter, Representative Nathe, & Representative Kilichowski.

Chairman Porter called the subcommittee to order.

Tim Wiedrich, section chief of the ND Department of Health Emergency Preparedness

and Response Section: Let me set the general framework. There would be three classifications in this process with these amendments and this mirrors our current operational practices. 1) We have situations where people are requested to come from out of state and we have a governor declared emergency—that follow the EMAC process. 2) We are requesting out of state personnel and we do not have a governor declared emergency—EMAC “light.” We have been following the approach that the sending state is responsible for the workers comp coverage. The amendments we brought would change the bill to deal with that provision. 3) We are deploying personnel in the state and that already has been covered by workers comp issues by allowing us a certain amount of days in which we have to file the names of the individuals deployed and pay a \$15 premium. Those are the operating principles that amendments are bringing forward.

Representative Porter: We wanted to be clear to follow the normal EMAC response and this amendment does that. In the second category, is there a separate agreement or is the vehicle?

Wiedrich: This is the vehicle. It sets up clear expectations of the financial expectations.

Representative Porter: Do we need any of the language past line 5 that talks about workers comp, agreements, etc.

. . . Further discussion going over the same questions and answers to clarify. . . .

Wiedrich: We have a data base of responders and can respond very quickly. I cannot say that is the same in all states. In SC if someone says they want to come to ND and help with an event, we would want them to go through the SC registration process before we bring those folks in. In the amendments we offer we would create exemptions for surrounding states and Canadian provinces. Those folks could register with us in the past. Outside of these adjoining areas, they would have to register with their own states.

George Wilz, deputy director, Department of Emergency Services and Director of Homeland Security for ND: I have had the opportunity to review the amendments and the proposals put forth. We concur with what he is trying to do. EMAC is the only thing that was a resounding success in Katrina. It is used each and every day. There's probably not a week that goes by that there is not a state in trouble that has requisitions that hit our agency. We look at every one of those. It is the best thing since sliced bread. It is since 2006 recognized by congress and they have begun to subsidize the program. I believe at some level this is necessary. It bodes us well to be prepared to fulfill those gaps no matter how small they are.

Wiedrich: This is a bill that our office is neutral on. Operationally we can do everything that is envisioned in the bill under current statute. If these amendments are put in place then I see

any potential stumbling blocks removed. It will then have merit in being a more uniform process.

Mike Mullen, assistant Attorney General: The department of Health will be the lead agency under this statute. (He walked the subcommittee through the amendments, including those on the last page submitted by Workers Compensation.) **(Attachment 1)**

(Unstructured discussion of the amendments.)

Representative Porter: My question is do we need this or not.

Mullen: I think this will work. The purpose of the bill is to set up a system so we can screen people. I think this bill, with the amendments, is consistent with the basic policy of setting up a system to recognize volunteers who have registered in another state and are then free to come here and be recognized. That's the primary purpose of the bill.

Representative Porter summarized the bill. It's just a question now of whether it is funded by the Legislature or Workman's comp.

Representative Kilichowski: My feeling is that is a benefit to the state and I would think the state should pick up the bill and not worker's comp or the employers.

Representative Kilichowski: I move we accept these amendments.

Representative Nathe seconded the motion.

By a vote of 3 to 0 the subcommittee accepted the amendments.

Representative Porter will take the amendments to Legislative Council to have them prepared for the full Committee.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1073

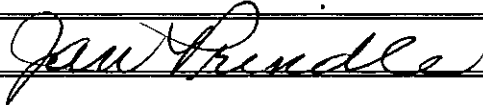
House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **January 21, 2009**

Recorder Job Number: 7490

Committee Clerk Signature



Minutes:

Chairman Weisz opened discussion of HB 1073. He asked the subcommittee for their report.

Representative Porter: The subcommittee met yesterday with the Mr. Wiedrich of the department and Health, special assistant Attorney General Mike Mullen and Mr. Wilz from the department of Emergency Services. We did ask for an amendment from Legislative Council so that it was in total proper form and not this clip and paste. It will be exactly to this with no changes so there is no reason we cannot act on this now. Basically what we were concerned with was that we have other agreements and data bases in place that are utilized through other compacts. The main compact is called EMAC, that's an agreement between all 50 states. The State of ND through Homeland Security grants has put together a personnel data base system that volunteers can now sign up on line and be part of the calling up to any kind of situation that fits what your capabilities may be. That's all in place. The original concern of the department of Health is that this circumvents the EMAC that is up and running. Part of the reason is that this comes from the Uniform State Laws Commission and not all states have been as efficient as ND in getting their EMAC and data bases up and running and getting their laws lined up for medical malpractice and worker's comp. Why do we need this law? The

EMAC is designed for a governor-declared situation. If it is not governor declared, this would fit that need. Is it necessary? Yes it is because there is a void up to a governor declared disaster for which this uniform law would fit the bill for ND. Does it fit with our current EMAC? That's what the amendments do. It moves this to the department of Health because that's our current law. If it's a public health situation and doesn't need a governor's declaration to be considered something, is where they may want to utilize this document. We have that provision in there. It goes on to cover other volunteers other than medical and veterinarians which is how it came to us. It adds reciprocal agreements that are needed.

Chairman Weisz: For a non professional, for example, a water treatment worker, would they still have to sign up for this register.

Representative Porter: Correct. The level of credentialing exists all across the board. If they do not require a professional license to practice what they are, then the health department still conducts a background check on them. Page 9, line 4, overstrikes sections of law dealing with immunity that are specifically named. There no longer exist limits. The volunteer person will have workers comp coverage from their state. For them to have that coverage, the health department has to create a roster if any provision of this is done. If 10 people or 200 people are activated and sent in state or out of state, the health department has 48 hours to put that roster together and to send \$15 per person to the ND workers comp agency and they are covered under the current existing volunteer provisions of ND Workers Comp. The reciprocity issue on page 3 would be new language because now the state of ND is accepting applicants from adjoining states and Canadian provinces and would allow them to be under their home state workers comp. This is an interstate compact. In Section 3, the crux of the issue is that a lot of this is current law. Some are just wording changes. If EMAC is used and the State of ND sends 200 people to Texas and pays the \$15 premium to cover them and something

happens and they get hurt and there is a liability to the workers comp fund, that liability is paid for by the State of North Dakota not the employers of ND who have the reserve fund at workforce safety. For example if the total bill to workforce safety would be \$20,000. And there was raise of \$10,000 in premium charge then the State of ND would write a check for \$10,000.

Representative Damschen: You say we have this reciprocity agreement set up through EMAC. Do the other states have to sign off on it?

Representative Porter: No, this works in conjunction with EMAC. This fills the gap before a governor's declaration.

Representative Conrad: If the state pays in the \$15, then why don't we draw from worker's comp to use that program?

Representative Porter: The actuarially sound number that you are putting that person into is undeterminable. It's just part of an already existing system. That dollar amount is sitting there and if no one is drawing from it, the money is there for volunteers to access. That's their actuarial pool. If it is not enough should that difference be drawn out of the existing reserves of workforce safety and the employers of the State of ND or should it come from the general fund to cover that additional risk.

Representative Frantsvog: I thought this was only for service out of state.

Representative Porter: My understanding is that any time the group is activated through the State of ND; they have 48 hours to notify and pay even if they are deployed in state.

Chairman Weisz: Then, if I had shown up in Northwood with a pay loader and was not on this list, I would have been turned away.

Representative Porter: Yes, you would. The contractors from Minnesota were never paid because they were not in the system. The safeguard is the credentialing component. It is also for the reimbursement of those individuals like contractors who charge for their services.

Representative Frantsvog: They were calling for volunteers.

Representative Porter: That was a local decision. Those people wouldn't be credentialed and wouldn't have workers comp coverage. They could still that they would not be prohibited. It is not the preferred method.

Representative Kilichowski: I move the adoption of the amendments (prepared for DOH by MJM/90218.0203)

Representative Nathe: Second

A voice vote was taken and the amendments were accepted.

Representative Hofstad: I move Do Pass as Amended

Representative Potter: Second

Representative Frantsvog: I expect the lack of a fiscal note is going to be an issue.

Chairman Weisz: The only fiscal note would be the workforce safety issue.

Representative Potter: I would think we would ask them to look at this and ask them to give us a fiscal impact. I think you will see a different fiscal note.

Chairman Weisz: I will request a different fiscal note.

A roll call vote was taken. Yes: 12, No: 0, Absent: 1 (Holman)

Representative Porter will carry the bill.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1073

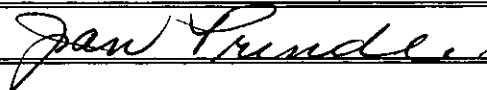
House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **February 2, 2009**

Recorder Job Number: 8411

Committee Clerk Signature



Minutes:

Chairman Weisz: Legislative Counsel has some real concerns with the amendment of 1073.

It conflicts with current laws having to do with emergency and non emergency. I asked them to make some suggested amendments and we will look at it. We will have to bring it back.

Their concern is that we are going well beyond current law as far as the duty of the public health units. They said it definitely conflicted. We will look at that again. I asked them to explain the conflict to us.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1073

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **February 3, 2009**

Recorder Job Number: 8522

Committee Clerk Signature



Minutes:

Chairman Weisz opened discussion of HB 1073.

John Bjornson, Legislative Counsel: This bill was amendment last week. As part of the engrossing process we placed the amendments into the bill and checked that it appears to be correct. We had a question so we asked the Chairman which is what we do. To get right to the point, the amendment on page 1, line 23 & 24 defines an emergency declaration. The amendment adds the state health department and the local board of health. Under current law emergency declarations or proclamations of disasters are issued by the Governor at the statewide level or the chief executive officer at the local level—like the major, county commissioners, etc. The question we have is do you intend to broaden this to allow a health officer or a local board of health to issue emergency declarations? The law is a little on the grey side with respect to their authority. They can issue orders to address an emergency but it doesn't say they can issue a proclamation or a disaster declarations. We ask if that is what you intend to do.

Chairman Weisz: Some of the rationale for the language in the bill had to do with local events that can rise to a point of a state of emergency. What the original bill said "issued by the governor" could you have it say the "affected political subdivision"?

Bjornson: Yes, this definition is going to just apply to this new chapter. It is a question of consistency as to who can declare an emergency. If, for the purposes of this chapter, you want to allow the state health officer or local board of health to be able to respond, you could have it in this definition. We feel it needs clarification for what the intent was.

Representative Porter: Inside the code, one of the areas we were dealing with is the fact that these are situations below the level of governor declaration. Once they reach that level then the EMAC compact kicks in. The wording we have from the health department relates back to quarantine type issues and specific public health issues that are not going to meet the level of a governor's declaration. The reason the wording is as it is was to cover those situations—that gap between the governor's declaration and nothing.

Bjornson: We thought that was where you were aiming. We can clarify the language. It could be narrowed a little bit.

Representative Porter: We weren't trying to create any new authorities for those individuals. What we were trying to accomplish was to allow them access in to that pool of volunteers for situations below the level of a governor's declaration.

Bjornson: If that is the Committee's intent, we can work with that intent.

. . . Open discussion of department of Health's and local health department's authority in emergency situations. . . .

Representative Porter: Do we need to narrow this within the amendments?

Bjornson: If there is question about the intent and we were challenged, the court would determine if there is ambiguity in the law. They can go to your records to see the intent. The department of Health and local health departments do not now have authority to declare an emergency or a state of disaster. They have authority to respond to public health emergencies. We can figure out what type of language we want here.

Representative Porter: Are we getting to where we want to be with this language?

Chairman Weisz: The bill has been brought back. I want the Committee to decide. . .

Representative Porter: If you give it back to the subcommittee we can look at this.

The subcommittee of Representatives Porter, Kilichowski, and Nathe will look at the bill again.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9028

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz: On HB 1073, who from the Health Dept. wants to address declaring an emergency.

Tim Weidrich, ND Health Dept.: Question from committee on HB 1073 about adding additional power or authority to the State Health Dept. or local boards of health in response to emergencies. Reviewing proposed statute and existing law, I'm in a loss how it does in fact. I don't believe it does create an expansion.

Chairman Weisz: Concern came from Department responding to an emergency or declaring an emergency (inaudible).

Tim Weidrich: Under existing statues nothing prohibits us to send volunteers during an emergency.

Chairman Weisz: Concern this language implies that you can actually declare an emergency.

Tim Weidrich: That's not something we are seeking under this legislation. Even if we had the authority, there's nothing here that would give us an additional power to do things because it does not specify anything.

Rep. Porter: Concern about lines 23 and 24. What exactly are those Century Code listed powers that the state health officer can do without the governor? And what can the local board of health do without the state health officer or the governor?

Tim Weidrich: Like to defer back to someone else.

Michael Mullen, Assistant Attorney General: I'll give you some examples. The state health officer has authority under Section 230105 Subsection 12 under current law to issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. These may include immunizations and decontamination measures. The state health officer may apply to a district court for order to cancel public events or close places of business. The state health officer has the authority to take some measures under existing law even if the governor has not declared an emergency. Section references are, Chapter 2307.6, 2307.602 and Subsection 1.

Rep. Porter: Because we expanded on this bill under the emergency declaration definition. Does that in your opinion expand their duties and powers beyond what is currently written in the century code?

Michael Mullen: I don't think it does and certainly not intended to.

Rep. Porter: The purpose of the bill relates back to uniform laws on volunteer pool of health practitioners and others to help in this situation. When we say the local board of health or state health officer can access that pool, they can do so with their existing authority in the Century Code?

Michael Mullen: That's correct.

Chairman Weisz: On Subsection 3, Section 2, do we need that language?

Michael Mullen: If there's a better way to draft this, I'm willing to take a crack at it.

(Discussion back and forth about amendments Mr. Mullen passed out.)

Rep. Porter: Motion to page 1 line 24, remove new language and further amend new proposed amendments handed out by Mr. Mullen.

Rep. Potter: Second.

Voice Vote: 13 yeas, 0 nays, 0 absent.

Rep. Porter: Motion for a DO PASS as amended.

Rep. Frantsvog: Second

Roll Call Vote: 13 yes, 0 no, 0 absent.

MOTION CARRIED DO PASS

BILL CARRIER: Rep. Porter.

FISCAL NOTE
Requested by Legislative Council
04/22/2009

Amendment to: Engrossed
HB 1073

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2009 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1073 with Conference Committee Amendments (Version .0600)

BILL DESCRIPTION: Coverage for Emergency Volunteer Health Practitioners

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

Premium Rate Level Impact: As we understand the proposed legislation, it will define workers' compensation coverage for "voluntary health practitioners" while an emergency is in effect. Coverage extends to deaths and injuries occurring while responding to emergencies contemplated within the statute. Coverage only extends to North Dakota practitioners, not to out of state practitioners entering North Dakota. Out of state practitioners will be covered by their originating state.

It would be extremely difficult to determine the rate level impact of the proposed legislation because Workforce Safety and Insurance does not have an appropriate historical base of experience to make such estimates possible. Exacerbating the pricing difficulty:

The exposure group (the type and number of workers that may be eligible for benefits) is not known at this time. The exposure group could easily be extended to out-of-state and possibly international, volunteers.

- The range of possible costs is extremely large. The potential for a very high cost incident, though unlikely, is very real.
- The potential for significant additional costs, and associated premium increases, will likely fall to a comparatively small group of classes.

The possibility of significant, but non-quantifiable, costs provides additional support for WSI's practice for maintaining a funding margin on its financial statement in addition to provision for the expected discounted costs of claims.

DATE: April 22, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	04/22/2009

FISCAL NOTE
Requested by Legislative Council
03/26/2009

Amendment to: Engrossed
 HB 1073

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2009 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1073 with Senate Amendments (Version .0500)

BILL DESCRIPTION: Coverage for Emergency Volunteer Health Practitioners

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

Premium Rate Level Impact: As we understand the proposed legislation, it will define workers' compensation coverage for "voluntary health practitioners" while an emergency is in effect. Coverage extends to deaths and injuries occurring while responding to emergencies contemplated within the statute. Coverage extends to North Dakota practitioners responding within or originating from North Dakota. Coverage will likely extend to out of state practitioners entering North Dakota who are not otherwise eligible for benefits in another state.

It would be extremely difficult to determine the rate level impact of the proposed legislation because Workforce Safety and Insurance does not have an appropriate historical base of experience to make such estimates possible. Exacerbating the pricing difficulty:

- The exposure group (the type and number of workers that may be eligible for benefits) is not known at this time. The exposure group could easily be extended to out-of-state and possibly international, volunteers.

- The range of possible costs is extremely large. The potential for a very high cost incident, though unlikely, is very real.

- The potential for significant additional costs, and associated premium increases, will likely fall to a comparatively small group of classes.

The possibility of significant, but non-quantifiable, costs provides additional support for WSI's practice for maintaining a funding margin on its financial statement in addition to provision for the expected discounted costs of claims.

DATE: March 26, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	03/26/2009

FISCAL NOTE
Requested by Legislative Council
03/16/2009

Amendment to: Engrossed
 HB 1073

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2009 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1073 with Senate Amendments

BILL DESCRIPTION: Coverage for Emergency Volunteer Health Practitioners

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

Premium Rate Level Impact: As we understand the proposed legislation, it will define workers' compensation coverage for "voluntary health practitioners" while an emergency is in effect. Coverage extends to deaths and injuries occurring while responding to emergencies contemplated within the statute. Coverage extends to North Dakota practitioners responding within or originating from North Dakota. Coverage will likely extend to out of state practitioners entering North Dakota who are not otherwise eligible for benefits in another state.

It would be extremely difficult to determine the rate level impact of the proposed legislation because Workforce Safety and Insurance does not have an appropriate historical base of experience to make such estimates possible. Exacerbating the pricing difficulty:

- The exposure group (the type and number of workers that may be eligible for benefits) is not known at this time. The exposure group could easily be extended to out-of-state and possibly international, volunteers.

- The range of possible costs is extremely large. The potential for a very high cost incident, though unlikely, is very real.

- The potential for significant additional costs, and associated premium increases, will likely fall to a comparatively small group of classes.

The possibility of significant, but non-quantifiable, costs provides additional support for WSI's practice for maintaining a funding margin on its financial statement in addition to provision for the expected discounted costs of claims.

DATE: March 16, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	03/16/2009

FISCAL NOTE
Requested by Legislative Council
02/13/2009

Amendment to: HB 1073

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2009 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1073

BILL DESCRIPTION: Coverage for Emergency Volunteer Health Practitioners

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

New section 37-17.3-11 of Section 1, Section 2, and Section 3 of the proposed legislation defines workers' compensation coverage for emergency voluntary health practitioners.

Premium Rate Level Impact: As we understand the proposed legislation, it will define workers' compensation coverage for "voluntary health practitioners" while an emergency is in effect. Coverage extends to deaths and injuries occurring while responding to emergencies contemplated within the statute. Coverage only extends to North Dakota practitioners, not to out of state practitioners entering North Dakota. Out of state practitioners will be covered by their originating state.

It would be extremely difficult to determine the rate level impact of the proposed legislation because Workforce Safety and Insurance does not have an appropriate historical base of experience to make such estimates possible. Exacerbating the pricing difficulty:

- The exposure group (the type and number of workers that may be eligible for benefits) is not known at this time. The exposure group could easily be extended to out-of-state and possibly international, volunteers.
- The range of possible costs is extremely large. The potential for a very high cost incident, though unlikely, is

very real.

- The potential for significant additional costs, and associated premium increases, will likely fall to a comparatively small group of classes.

The possibility of significant, but non-quantifiable, costs provides additional support for WSI's practice for maintaining a funding margin on its financial statement in addition to provision for the expected discounted costs of claims.

DATE: February 13, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	02/13/2009

FISCAL NOTE
Requested by Legislative Council
01/09/2009

Bill/Resolution No.: HB 1073

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

New section 37-17.3-11 of Section 2 of the proposed legislation extends workers' compensation coverage to emergency voluntary health practitioners.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2009 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1073

BILL DESCRIPTION: Coverage for Emergency Volunteer Health Practitioners

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

New section 37-17.3-11 of Section 2 of the proposed legislation extends workers' compensation coverage to emergency voluntary health practitioners.

Premium Rate Level Impact: As we understand the proposed legislation, it will extend workers' compensation coverage to "voluntary health practitioners" while an "emergency declaration" is in effect. The expansion of coverage would occur only if the injured voluntary health practitioner is not currently eligible for workers' compensation benefits.

It would be extremely difficult to determine the rate level impact of the proposed legislation because Workforce Safety and Insurance does not have an appropriate historical base of experience to make such estimates possible. Exacerbating the pricing difficulty:

- The exposure group (the type and number of workers that may be eligible for benefits) is not known at this time. The exposure group could easily be extended to out-of-state and possibly international, volunteers.
- The range of possible costs is extremely large. The potential for a very high cost incident, though unlikely, is very real.

- The potential for significant additional costs, and associated premium increases, will likely fall to a comparatively small group of classes.

The possibility of significant, but non-quantifiable, costs provides additional support for WSI's practice for maintaining a funding margin on its financial statement in addition to provision for the expected discounted costs of claims.

DATE: January 12, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	01/12/2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

Page 1, line 1, after "37-17.3" insert "and a new section to chapter 65-06"

Page 1, line 2, after "Act" insert "and workers' compensation coverage of volunteers"

Page 1, line 3, replace "subdivision b of subsection 2 of section 28-32-01" with "section 65-06-05"

Page 1, line 4, replace "application of the Administrative Agencies Practice Act" with "workers' compensation coverage of volunteers"

Page 1, remove lines 6 through 9

Page 1, line 18, after "the" insert "state" and replace "emergency services" with "health"

Page 1, line 20, after the second "the" insert "state" and replace "emergency services" with "health"

Page 1, line 22, after "37-17.1" insert "and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer or a local board of health"

Page 1, line 24, after "governor" insert ", state health officer, or local board of health"

Page 2, line 7, after "services" insert "and any other individual performing nonmedical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the state department of health or a local public health unit and deployed through the emergency system for advance registration of volunteer health professionals"

Page 3, line 20, after "the" insert "state" and replace "emergency services" with "health"

Page 4, line 1, after "the" insert "state" and replace "emergency" with "health"

Page 4, line 2, remove "services"

Page 4, replace line 7 with:

- "1. In the case of a volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency, the volunteer health practitioner registration system is the emergency system for advance registration of volunteer health professionals and is maintained by the state department of health and is known as the public health emergency volunteer medical reserve corps.
2. In the case of a volunteer health practitioner who is not covered under subsection 1, the volunteer health practitioner registration system is the

system established under subsection 1 or a system that qualifies under this subsection. To qualify as a volunteer health practitioner registration system under this subsection, a system must:

Page 4, line 22, after the underscored semicolon insert "or"

Page 4, line 31, replace "; or" with an underscored period

Page 5, remove lines 1 and 2

Page 5, line 3, replace "2." with "3.", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 4, remove "services", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 5, remove "services"

Page 5, line 7, after "1" insert "or 2"

Page 5, line 10, replace "3." with "4." and replace "2" with "3"

Page 5, line 14, replace "4." with "5."

Page 6, line 21, after "The" insert "state" and replace "emergency services" with "health"

Page 8, line 6, replace "department of emergency services" with "health council"

Page 8, line 7, replace "department of emergency services" with "health council"

Page 9, line 1, replace "protections" with "immunity"

Page 9, line 4, remove ", including section 23-27-04.1 and chapter 32-03.1"

Page 9, replace lines 6 through 27 with:

- "1. Except as provided in subsection 2, a volunteer health practitioner who dies or is injured as the result of providing health or veterinary services as provided under this chapter is not considered to be an employee of this state for the purpose of receiving benefits under title 65 and must be treated for the purposes of North Dakota law as an individual eligible for workers' compensation or similar benefits under the law of the state in which the volunteer is qualified for service under an emergency system for advance registration of volunteer health practitioners authorized under subsection 2 of section 37-17.3-04.
2. A volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency who dies or is injured as a result of providing health or veterinary services as provided under this chapter is eligible for benefits as provided under title 65 if the volunteer is qualified and serving under the emergency

system for advance registration of volunteer health practitioners of this state under subsection 1 of section 37-17.3-04.

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

65-06-05. Reimbursement by state for liability in excess of premiums collected. Whenever liability on claims against the fund credited to the classification of volunteer emergency or disaster emergency volunteers and trainees or volunteer health practitioners as defined under chapter 37-17.3 exceeds the amount of premiums paid into ~~such~~ the fund, such excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be reimbursed to the organization for credit to the workforce safety and insurance fund by legislative appropriation.

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

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

Renumber accordingly

Date: 21 Jan 09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Kilichowski Seconded By Nathe

[illegible]

Total (Yes) _____ No _____

Absent

Bill Carrier

If the vote is on an amendment, briefly indicate intent:

Prepared by OCH by MJM
(90218.0203)

Date: 1-23-09
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1073

House HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Hofstad Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep Potter

If the vote is on an amendment, briefly indicate intent:

VR
2/10/09
1/8 3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

Page 1, line 1, after "37-17.3" insert "and a new section to chapter 65-06"

Page 1, line 2, after "Act" insert "and workers' compensation coverage of volunteers"

Page 1, line 3, replace "subdivision b of subsection 2 of section 28-32-01" with "section 65-06-05"

Page 1, line 4, replace "application of the Administrative Agencies Practice Act" with "workers' compensation coverage of volunteers"

Page 1, remove lines 6 through 9

Page 1, line 18, after "the" insert "state" and replace "emergency services" with "health"

Page 1, line 20, after the second "the" insert "state" and replace "emergency services" with "health"

Page 1, line 22, after "37-17.1" insert "and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer or a local board of health"

Page 2, line 7, after "services" insert "and any other individual performing nonmedical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the state department of health or a local public health unit and deployed through the emergency system for advance registration of volunteer health professionals"

Page 3, line 13, replace "while" with "during" and remove "declaration"

Page 3, line 14, remove "is in effect"

Page 3, line 17, replace "while" with "during"

Page 3, line 18, remove "declaration is in effect"

Page 3, line 20, replace "While" with "During", remove "declaration is in effect", after "the" insert "state", and replace "emergency services" with "health"

Page 4, line 1, after "the" insert "state" and replace "emergency" with "health"

Page 4, line 2, remove "services"

Page 4, replace line 7 with:

- "1. In the case of a volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional

2073
board or agency, the volunteer health practitioner registration system is the emergency system for advance registration of volunteer health professionals and is maintained by the state department of health and is known as the public health emergency volunteer medical reserve corps.

2. In the case of a volunteer health practitioner who is not covered under subsection 1, the volunteer health practitioner registration system is the system established under subsection 1 or a system that qualifies under this subsection. To qualify as a volunteer health practitioner registration system under this subsection, a system must:

Page 4, line 15, replace the underscored semicolon with an underscored colon

Page 4, line 22, after the underscored semicolon insert "or"

Page 4, line 31, replace "; or" with an underscored period

Page 5, remove lines 1 and 2

Page 5, line 3, replace "2." with "3.", replace "While" with "During", remove "declaration is in effect", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 4, remove "services", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 5, remove "services"

Page 5, line 7, after "1" insert "or 2"

Page 5, line 10, replace "3." with "4." and replace "2" with "3"

Page 5, line 14, replace "4." with "5."

Page 5, line 18, replace "While" with "During" and remove "declaration is in effect"

Page 6, line 11, replace "while" with "during" and remove "declaration is in effect"

Page 6, line 21, after "The" insert "state" and replace "emergency services" with "health"

Page 8, line 6, replace "department of emergency services" with "health council"

Page 8, line 7, replace "department of emergency services" with "health council"

Page 9, line 1, replace "protections" with "immunity"

Page 9, line 4, remove ", including section 23-27-04.1 and chapter 32-03.1"

Page 9, replace lines 6 through 27 with:

- "1. Except as provided in subsection 2, a volunteer health practitioner who dies or is injured as the result of providing health or veterinary services as provided under this chapter is not considered to be an employee of this

state for the purpose of receiving benefits under title 65 and must be treated for the purposes of North Dakota law as an individual eligible for workers' compensation or similar benefits under the law of the state in which the volunteer is qualified for service under an emergency system for advance registration of volunteer health practitioners authorized under subsection 2 of section 37-17.3-04.

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

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

65-06-05. Reimbursement by state for liability in excess of premiums collected. Whenever liability on claims against the fund credited to the classification of volunteer emergency or disaster emergency volunteers and trainees or volunteer health practitioners as defined under chapter 37-17.3 exceeds the amount of premiums paid into ~~such~~ the fund, such excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be reimbursed to the organization for credit to the workforce safety and insurance fund by legislative appropriation.

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

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

Renumber accordingly

Date: 2-9-07
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1073

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ **Do Pass** ☐ **Do Not Pass** ☐ **Amended**

Motion Made By Rep. Porter Seconded By Rep. Porter

[illegible]

Total (Yes) 13 No 0

Absent _____ 2 _____

Bill Carrier

If the vote is on an amendment, briefly indicate intent:

motion pg 1 line 24
remove ^{new} language and
new proposed amend. by
Michael Muller.

Date: 2-9-09
Roll Call Vote # 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1073

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Porter Seconded By Rep. Frantsvog

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 13 No 0

Absent 0

Bill Carrier Rep. PORTER

If the vote is on an amendment, briefly indicate intent:

*as amended
motion carried DP*

REPORT OF STANDING COMMITTEE

HB 1073: Human Services Committee (Rep. Welsz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1073 was placed on the Sixth order on the calendar.

Page 1, line 1, after "37-17.3" insert "and a new section to chapter 65-06"

Page 1, line 2, after "Act" insert "and workers' compensation coverage of volunteers"

Page 1, line 3, replace "subdivision b of subsection 2 of section 28-32-01" with "section 65-06-05"

Page 1, line 4, replace "application of the Administrative Agencies Practice Act" with "workers' compensation coverage of volunteers"

Page 1, remove lines 6 through 9

Page 1, line 18, after "the" insert "state" and replace "emergency services" with "health"

Page 1, line 20, after the second "the" insert "state" and replace "emergency services" with "health"

Page 1, line 22, after "37-17.1" insert "and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer or a local board of health"

Page 2, line 7, after "services" insert "and any other individual performing nonmedical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the state department of health or a local public health unit and deployed through the emergency system for advance registration of volunteer health professionals"

Page 3, line 13, replace "while" with "during" and remove "declaration"

Page 3, line 14, remove "is in effect"

Page 3, line 17, replace "while" with "during"

Page 3, line 18, remove "declaration is in effect"

Page 3, line 20, replace "While" with "During", remove "declaration is in effect", after "the" insert "state", and replace "emergency services" with "health"

Page 4, line 1, after "the" insert "state" and replace "emergency" with "health"

Page 4, line 2, remove "services"

Page 4, replace line 7 with:

- "1. In the case of a volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency, the volunteer health practitioner registration system is the emergency system for advance registration of volunteer health professionals and is maintained by the state department of health and is known as the public health emergency volunteer medical reserve corps.

2. In the case of a volunteer health practitioner who is not covered under subsection 1, the volunteer health practitioner registration system is the system established under subsection 1 or a system that qualifies under this subsection. To qualify as a volunteer health practitioner registration system under this subsection, a system must:

Page 4, line 15, replace the underscored semicolon with an underscored colon

Page 4, line 22, after the underscored semicolon insert "or"

Page 4, line 31, replace "; or" with an underscored period

Page 5, remove lines 1 and 2

Page 5, line 3, replace "2." with "3.", replace "While" with "During", remove "declaration is in effect", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 4, remove "services", after "the" insert "state", and replace "emergency" with "health"

Page 5, line 5, remove "services"

Page 5, line 7, after "1" insert "or 2"

Page 5, line 10, replace "3." with "4." and replace "2" with "3"

Page 5, line 14, replace "4." with "5."

Page 5, line 18, replace "While" with "During" and remove "declaration is in effect"

Page 6, line 11, replace "while" with "during" and remove "declaration is in effect"

Page 6, line 21, after "The" insert "state" and replace "emergency services" with "health"

Page 8, line 6, replace "department of emergency services" with "health council"

Page 8, line 7, replace "department of emergency services" with "health council"

Page 9, line 1, replace "protections" with "immunity"

Page 9, line 4, remove ", including section 23-27-04.1 and chapter 32-03.1"

Page 9, replace lines 6 through 27 with:

- "1. Except as provided in subsection 2, a volunteer health practitioner who dies or is injured as the result of providing health or veterinary services as provided under this chapter is not considered to be an employee of this state for the purpose of receiving benefits under title 65 and must be treated for the purposes of North Dakota law as an individual eligible for workers' compensation or similar benefits under the law of the state in which the volunteer is qualified for service under an emergency system for advance registration of volunteer health practitioners authorized under subsection 2 of section 37-17.3-04.
2. A volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency who dies or is injured as a result of providing health or veterinary services

as provided under this chapter is eligible for benefits as provided under title 65 if the volunteer is qualified and serving under the emergency system for advance registration of volunteer health practitioners of this state under subsection 1 of section 37-17.3-04.

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

65-06-05. Reimbursement by state for liability in excess of premiums collected. Whenever liability on claims against the fund credited to the classification of ~~volunteer emergency or disaster emergency~~ volunteers and trainees or volunteer health practitioners as defined under chapter 37-17.3 exceeds the amount of premiums paid into ~~such~~ the fund, such excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be reimbursed to the organization for credit to the workforce safety and insurance fund by legislative appropriation.

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

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

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1073

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

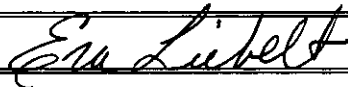
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 10, 2009

Recorder Job Number: 10566

Committee Clerk Signature



Minutes:

Senator David Hogue, Commissioner of the ND delegation of the National Conference of commissioners on Uniform State Laws: Written testimony in favor of the bill.

Chairman Klein: The responsibility of the workers' comp premium would be to, who would pick up the bill?

Senator Hogue: The State. The key policy decision is if we are in a state of emergency and they come here to work we will pay for an injury that they incur if they do not have coverage from their host state.

Chairman Klein: As you're looking at uniform state law will that create a state uniformity?

Senator Hogue: I would say it does.

Senator Horne: If I would come from another state in which I had workers' comp they would pay first otherwise North Dakota would pay?

Senator Hogue: That's correct.

Senator Andrist: In a perfect world, the home state would pay the bill. If we are going to provide that coverage maybe workforce safety would become the provider of the last result.

Senator Hogue: In the original draft of the bill that was stated. I believe the majority of volunteers would have coverage. That would cover or be for a minimum amount of volunteers.

Senator Andrist: Tell me again what the house change does?

Senator Hogue: What they basically did in one of their amendments is say, we are the host state we are the emergency and you are coming into our state and we are not going to provide you with any coverage you have to look to your host state. And that would be okay except for the individual who does not have coverage in the state from which they are coming. There are licensed professionals that are not working so they do not have that coverage. So they are the ones that are willing to come because it doesn't conflict with their job or their other commitments so they could come here. And for those individuals one of the big factors of whether they will be motivated to come here is can I be sued if I come there and will I be covered if I get hurt.

Senator Horne: Do you know how many states have this?

Senator Hogue: There were eight or nine states that had it before Katrina and since then a dozen have adopted it. The uniform act added this workers' compensation provision because that was viewed as a short coming.

Discussion continued on the bill and the importance of having this coverage for workers coming in our state.

Tim Wiedmeier, North Dakota Department of Health:

Two federal programs were developed back in 2002. The developed grants were public health and emergency preparedness. We've been working with nine medical boards. We've worked out a system so they can provide info so those people can be deployed during a large scale emergency. Each state is requiring this registry. (Discusses how this process works). The EMAC provision requires that the sending state requires workers' comp and the receiving state would provide the liability part. From my prospective I don't care I just want a uniform system so it is taken care of.

Chairman Klein: This would give you a guide line?

Senator Potter: The liability coverage how do we do that?

Tim: We've already agreed as a policy matter that we are covering that. There is no special insurance and there is not a process in place.

Senator Andrist: The system is going to be such that the home state is going to be covering it anyway. So it probably won't happen that they wouldn't already have coverage.

Tim: It is a highly unlikely situation.

Jessie L. Vollmer, DVM, Assistant State Veterinarian, State Board of Animal Health:
Written testimony in favor of the bill.

Tim Wahlin, WSI: We are here to provide assistance whether the amendment goes one way or another we support the bill. We just need clarity on what we need to do.

Senator Potter: Did the first bill say WSI would be secondary coverage?

Tim Wahlin: I believe it did.

Senator Andrist: Did you prefer the first bill?

Tim Wahlin: It was made clear in the engrossed bill.

Dean Haas, General Council to North Dakota Medical Association: Written testimony is support of the bill.

Senator Potter: Your testimony is that EMAC has been inefficient so we still need to have this coverage?

Dean Haas: I was advised that the workers' comp EMAC has been efficient but this would help facilitate just bringing doctors in.

Tim: For clarification there were problems where people were trying to go outside the system and finding that there wasn't anything they could do because they were not representing an organization.

Discussion on adding an amendment to become uniformed with other states and also incorporate the amendment with the state veterinarian's amendments.

Senator Wanzek: Motioned for a do pass on the amendments.

Senator Nodland: Seconded.

Row Call Vote: 7-0

Senator Andrist: Do pass as amended.

Senator Nodland: Seconded.

Row Call Vote: 7-0

Senator Klein to carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

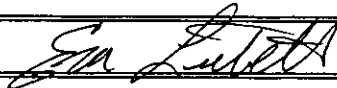
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 23, 2009

Recorder Job Number: 11407

Committee Clerk Signature



Minutes:

Chairman Klein: There were some contentions with WSI. They have since worked with the sponsor of the bill and suggests that we bring fix it before we bring it back to the House.

Senator Wanzek: Made a motion to reconsider the bill.

Senator Andrist: Second the motion.

Chairman Klein: Reads what Tim Wahlin had sent him on the amendment .What WSI would want to be added to the amendment. Copy attached.

Senator Horne: WSI didn't like the idea that we would cover them if they didn't have other insurance coverage?

Chairman Klein: They didn't like what the extent of the liability would be.

Senator Potter: This is about medical personal coming to the state.

Chairman Klein: Yes, we also added veterinarian professionals.

Senator Wanzek: What were saying they would be covered only to the extent of our law, not their state?

Chairman Klein: If were facilitating the medical professionals they would need to follow the rules in order to be covered in North Dakota. Reconsider the bill all in favor say I.

Senator Potter: Motioned to move the amendment.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution No. 1073

Hearing Date: March 23, 2009

Senator Wanzek: Seconded.

Passed: 7-0

Senator Wanzek: Moved a do pass as amended.

Senator Horne: Seconded.

Passed: 7-0

Senator Klein: To carry the bill.

March 10, 2009

JB
3-11-09
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1073

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 17, replace "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 21, replace "or" with an underscored comma and after the second "health" insert ", or the state veterinarian"

Page 3, line 24, after "health" insert "or the state board of animal health"

Page 4, line 5, after "health" insert "or the state board of animal health"

Page 6, line 30, after the first "health" insert "or the state board of animal health"

Page 9, replace lines 13 through 26 with:

- "1. A volunteer health practitioner who dies or is injured as the result of providing health or veterinary services under this chapter is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under the workers' compensation law of this state if:
 - a. The practitioner is not otherwise eligible for benefits for the injury or death under the law of this or another state; and
 - b. The practitioner or, in the case of death, the practitioner's personal representative elects coverage under the workers' compensation law of this state by making a claim under that law.
2. In this section, "injury" means a physical or mental injury or disease for which an employee of this state who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under the workers' compensation law of this state.
3. Workforce safety and insurance shall adopt rules, enter agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation law of this state by volunteer health practitioners who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the practitioners. To promote uniformity of application of this chapter with other states that enact similar legislation, workforce safety and insurance shall consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states."

Renumber accordingly

2 of 2

Date: 3/10/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1073

Senate

Committee

Industry, Business and Labor

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Pass ☐ Do Not Pass ☒ Amended

Motion Made By Senator Wanzek Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/10/09Roll Call Vote #: 2**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**
BILL/RESOLUTION NO. 1073

Senate

Committee

Industry, Business and Labor☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

☒ **Pass**☐ **Do Not Pass**☐ **Amended**Motion Made By Senator Andrist Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0Absent 0Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1073, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1073 was placed on the Sixth order on the calendar.

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 17, replace "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 21, replace "or" with an underscored comma and after the second "health" insert ", or the state veterinarian"

Page 3, line 24, after "health" insert "or the state board of animal health"

Page 4, line 5, after "health" insert "or the state board of animal health"

Page 6, line 30, after the first "health" insert "or the state board of animal health"

Page 9, replace lines 13 through 26 with:

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

 - a. The practitioner is not otherwise eligible for benefits for the injury or death under the law of this or another state; and
 - b. The practitioner or, in the case of death, the practitioner's personal representative elects coverage under the workers' compensation law of this state by making a claim under that law.
2. In this section, "injury" means a physical or mental injury or disease for which an employee of this state who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under the workers' compensation law of this state.
3. Workforce safety and insurance shall adopt rules, enter agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation law of this state by volunteer health practitioners who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the practitioners. To promote uniformity of application of this chapter with other states that enact similar legislation, workforce safety and insurance shall consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states."

Renumber accordingly

March 23, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1073

In lieu of the amendments adopted by the Senate as printed on pages 753 and 754 of the Senate Journal, Engrossed House Bill No. 1073 is amended as follows:

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 17, replace "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 21, replace "or" with an underscored comma and after the second "health" insert ", or the state veterinarian"

Page 3, line 24, after "health" insert "or the state board of animal health"

Page 4, line 5, after "health" insert "or the state board of animal health"

Page 6, line 30, after the first "health" insert "or the state board of animal health"

Page 9, replace lines 13 through 26 with:

- "1. A volunteer health practitioner who is injured as the result of providing health or veterinary services under this chapter is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under title 65 if:
 - a. The practitioner is not otherwise eligible for benefits for the injury or death under the law of this or another state; and
 - b. The practitioner or, in the case of death, the practitioner's personal representative elects coverage under the workers' compensation law of this state by making a claim under that law.
2. In this section, "injury" means a compensable injury as defined under section 65-01-02.
3. Workforce safety and insurance shall adopt rules, enter agreements with other states as is practicable, or take other measures to facilitate the receipt of benefits for injury or death under title 65 by volunteer health practitioners who reside in other states."

Renumber accordingly

Date: 3/23/09
Roll Call Vote #: 1

Senate

Industry, Business and Labor

Legislative Council Amendment Number 90218.0400

Motion Made By Senator Potter Seconded By Senator Wanzek

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 2

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1073, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1073 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 753 and 754 of the Senate Journal, Engrossed House Bill No. 1073 is amended as follows:

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

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- "1. A volunteer health practitioner who is injured as the result of providing health or veterinary services under this chapter is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under title 65 if:
 - a. The practitioner is not otherwise eligible for benefits for the injury or death under the law of this or another state; and
 - b. The practitioner or, in the case of death, the practitioner's personal representative elects coverage under the workers' compensation law of this state by making a claim under that law.
2. In this section, "injury" means a compensable injury as defined under section 65-01-02.
3. Workforce safety and insurance shall adopt rules, enter agreements with other states as is practicable, or take other measures to facilitate the receipt of benefits for injury or death under title 65 by volunteer health practitioners who reside in other states."

Renumber accordingly

2009 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1073

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

House Human Services Committee

☒ Check here for Conference Committee

Hearing Date: April 17, 2009

Recorder Job Number: 11954

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Porter called the conference committee meeting to order on HB 1073.

Sen. Klein: There are some issues we need to address as it relates to WSI. The Board of Animal Health and said they are called in on some emergencies. So we included them using the same language. Tim at WSI helped us draft the amendments.

Chairman Porter: Really the only issue is the WSI issue. The way we sent it out, we had the sending state responsible. Now the way you have it, the State of North Dakota is responsible for the nonresident volunteer coming into the state. We had it the exact opposite. The only people we covered were North Dakota residents or individuals that were signed up through the State Health Department's personnel system. So if Minnesota, South Dakota, Montana resident signed up through the North Dakota alert system, they would be covered as part of the North Dakota system with North Dakota Worker's Comp. as a volunteer. The way you have it, a physician coming from Michigan that is on an EMAC call up would now be covered under North Dakota's system if they don't have their own state's coverage.

Sen. Klein: That is correct, up to what Chapter 65, our Worker's Comp. law says. So we wouldn't enhance their benefits as to what Michigan's would be. We would only go up to the level of benefits we have. They are covered under their own state's coverage. But should

they come and not be covered by their own state, then they would be covered under North Dakota rule up to the benefits we currently pay our own.

Chairman Porter: The way the Sub A that you put in, is that if they are not a retired physician and they are working, they are covered under their policy in their state. If they are retired, then they would not have Worker's Comp., then they would be covered by North Dakota.

Sen. Klein: Correct.

Chairman Porter: We did have it the opposite. When Mr. Weidrich was here, there general discussion was that making this a uniform law that everyone else was adopting. Each state was going to be responsible for their own individuals that they would send as part of this EMAC call up. So when they made the call, if Michigan calls North Dakota and says we need a medical team then North Dakota would send a team. They would be covered under ND Worker's Comp. whether they are retired or not. If ND calls Michigan, their team would come to ND but Michigan would have to accept responsibility. That is part of how EMAC already works.

Sen. Klein: Mr. Weidrich heard the testimony.

Chairman Porter: We did a lot of work on this bill. Tim Weidrich was here. We've been proactive as a state in putting these compacts together. The EMAC, which is the Governor's agreement, has been signed in all 50 states. The Health Dept. has this registry of medical personnel that I don't know if it included the Board of Animal Health, physicians and nurses are all registered that want to be part of this. Inside of EMAC they already have provisions on Worker's Comp. coverage. We mirrored that language that has been approved by all 50 states. If we put this in, we are contradicting what those compacts are.

Rep. Weisz: It appears the Senate amendments cover both in an out of state.

Chairman Porter: We only cover in state. They cover both resident and nonresident.

Because it came in as a uniform law and North Dakota is so far advanced with registry system and EMAC, I don't want to trump something that is already working. We have a huge database of people.

Sen. Horne: In the Senate committee, I'm trying to remember why we did this. Was it that we were concerned that folks coming from out of state wouldn't elect to volunteer in North Dakota if they weren't covered?

Chairman Porter: We need to have Mr. Wiedrich, Dept. of Health, here. Their concern was that we don't create something that trumps the current system. They would not accept any volunteer at this level to come into North Dakota if they weren't registered in another state. It makes them go through background checks, prove they are licensed professionals. They need to sign up on ND's registry and wait for their credentials or go back to their state and sign up. Then inside of EMAC, each state agrees to cover the liability for whoever they send.

Sen. Horne: For example, if someone came into Fargo from Wisconsin, hadn't registered, was throwing sandbags, and was injured. They wouldn't be covered by anything in ND?

Chairman Porter: This act only covers Health Practitioners and Board of Animal Health. Mr. Wahlin would answer this question? If somebody is driving down the street and hears the call for help and they wrench their back at the Fargo Dome. Do they have Workers Comp. coverage for that?

Tim Wahlin, WSI: Most likely not. There a number of political subdivisions and volunteer organizations that will place pre-place volunteer coverage and purchase which is very expensive. As they sign up they will add them and extend coverage to them. Unless that coverage is in place or acting on behalf of their employer in sandbagging, they are not going to be covered.

Sen. Klein: I we veering away from what the discussion was when we originally heard this bill in the Senate? Mr. Wiedrich was there and I have not heard anything from him as we worked through this and I thought everyone was on board.

Tim Wahlin: His testimony there was similar to his testimony here. The changes that went in from the House it is no longer in uniform law. That's why the Senate went back to the base uniform law.

Rep. Conrad: As I recall, the system we have in place is (inaudible) by the federal government. It is not like we have something that is special just unique to ND, but it is compatible.

Chairman Porter: It is not advocated by federal government, but by all 50 states. It is on a national system. We started out with this bill to fit to the EMAC system and so the way we see it now, goes in place with our current EMAC is and recognized by all 50 states. It may not be what the uniform law commission looks at as far as uniform law, but we look at it like we have something that works already with EMAC and is proven. We sent helicopters to California and we just received a bunch of assets in the last month from all over the country without a glitch.

Sen. Klein: Our adjustment was similar with Tim and looking to get that uniformity and if you are in that state you are covered there and if you come here you don't have coverage and we will cover you only to the extent of what we cover or (inaudible) other workers.

Chairman Porter: Mr. Wiedrich and Mr. Wills don't want individuals just walking in and volunteering because their background checks aren't done and all that goes with EMAC aren't complete. Mr. Wahlin talked about when they do in EMAC, they fax a sheet right to workers comp to comply with their rules that they have to be notified within 48 hours of each individual who has been activated so they will have coverage.

Sen. Klein: My understanding was these folks had this registration because we didn't want folks to just show up because it just causes problems.

Rep. Weisz: It doesn't really define that on the volunteer (inaudible). You don't have to be registered to get workers comp.

Chairman Porter: Doesn't that definition go back to page 3?

Rep. Weisz: I'm looking on the Senate amendments. It says, "volunteer health practitioner" that's the definition.

Chairman Porter: The next section down, line 21 is where I think it catches you. (Inaudible) registration system.

Rep. Weisz: But, that's your EMAC.

Chairman Porter: That is the state's registration system and all 50 states have that. That's what makes them a volunteer (drops sentence). They won't get coverage if they aren't part of some registration system.

Sen. Klein: I would like Mr. Wiedrich and Mr. Wahlin to talk to see if everything is ok.

Chairman Porter: I don't think they have a problem with the addition with Board of Animal Health. It's just looking at the workmen's comp coverage and how it was explained to us.

Sen. Klein: That was their concern, was to make sure they understood where their responsibility started and where it ended.

Chairman Porter: Ultimately the general fund is responsible. We will reschedule something for Monday if we can get Mr. Wiedrich here and workers comp too.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1073

House Human Services Committee

☒ Check here for Conference Committee

Hearing Date: April 20, 2009

Recorder Job Number: 11995

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Porter: When we left here we had some questions about workmen's compensation. Provisions that the Senate added on page 9 and we want Mr. Wiedrich from the Health Dept. come over and discuss differences between the two bills.

Tim Wiedrich from the Health Dept: The House version follows the EMAC provisions currently in place. EMAC (Emergency Medical Assistance Compact) is in all 50 states and requires that the sending state provides for the workers compensation coverage. If we send people to another state, that state has to have the coverage in place. If another state send people to us, then we are responsible to cover them. The House aligns with the existing EMAC process. If the Senate version passes when we are receiving workers from the sending state we would provide coverage and also the sending state. The workers would have duplicate coverage.

Sen. Klein: We were led to believe we weren't following within the uniform. I am hearing you say now that the House version is the version that does more closely resemble what we do and uniformity that we created. Is that correct?

Tim Wiedrich: That is correct.

Sen. Klein: So for the purposes for what you do, you would prefer that we go back to the House version to make your job work the way it has been working and will continue to have uniformity.

Tim Wiedrich: That's true.

Sen. Horne: Can you review briefly again EMAC and give a little background?

Tim Wiedrich: There is a compact developed by the states. These are direct state to state compacts that was identified by the legislature in terms of how we share resources state to state.

Sen. Horne: The state receiving the assistance agrees to pay the sending state for their services.

Tim Wiedrich: Correct.

Rep. Nodland: You have some retired medical professionals and somebody in ND has a disaster and we need something. How does that work?

Tim Wiedrich: All 50 states have to follow a grant requirement. It is a registration process. We have people pre-registered in the system and we can send out a notice to all of those people if we have an emergency. If we have a small emergency, we would probably have enough practicing medical people and would not have to call on the retired medical professionals. If we have an emergency on a large scale it is possible we would have to.

Sen. Klein: We would safely be able to take care of all of those folks if they were asked to come back after retirement?

Tim Wiedrich: We would have this coverage through workers compensation and this legislation if it passes.

Sen. Klein: In receding from the Senate amendments we have put the bill in a condition that everyone is going to be good with. I want to make sure WSI is comfortable with that too.

Tim Wahlin from WSI: Yes, we are comfortable. We can go either way. It is just a matter of having clarity.

Sen. Klein: I'm not going either way here. If we recede and go back to the House version that creates enough clarity for what you folks need to do?

Tim Wahlin: Absolutely.

Sen. Klein: Move the Senate recede the Senate amendments and further amend.

Chairman Porter: The Senate will move to recede the Senate amendments and further amend. (Listed the amendments that are re-amended back into the bill.

Sen. Nodland: Second.

Roll Call Vote: 6 yes, 0 no, 0 absent.

MOTION CARRIED:

BILL CARRIERS: Sen. Klein for the Senate and Rep. Porter for the House.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1073 (, as (re)engrossed):

Date: 4-17-09

Your Conference Committee HUMAN SERVICES

For the Senate:

For the House:

YES / NO

YES / NO

<i>attendance</i> ✓	Sen. Klein			Rep. PORTER			<i>attendance</i> ✓
✓	Sen. Nodland			Rep. WEISZ			✓
✓	Sen. HORNE			Rep. Conrad			✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: _____

SECONDED BY: _____

OTE COUNT YES NO ABSENT

VR
4/20/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1073

That the Senate recede from its amendments as printed on pages 1139 and 1140 of the House Journal and pages 937 and 938 of the Senate Journal and that Engrossed House Bill No. 1073 be amended as follows:

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 17, replace "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 21, replace "or" with an underscored comma and after the second "health" insert ", or the state veterinarian"

Page 3, line 24, after "health" insert "or the state board of animal health"

Page 4, line 5, after "health" insert "or the state board of animal health"

Page 6, line 30, after the first "health" insert "or the state board of animal health"

Renumber accordingly

absent

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1073 (, as (re)engrossed):

Date: 4-20-09

Your Conference Committee Human Services

For the Senate:

For the House:

Attend.		YES	NO		YES	NO	ATTEND.
✓	Sen. Klein	✓		Rep. PORTER	✓		✓
✓	Sen. NOOLAND	✓		Rep. Weisz	✓		✓
✓	Sen. Horne	✓		Rep. Conrad	✓		✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1139 - 1140

____, and place _____ on the Seventh order.

X, adopt (further) amendments as follows, and place 1073 on the Seventh order:

____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1073 was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: Rep. PORTER

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen. Klein

SECONDED BY: Sen. Nooland

OTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1073, as engrossed: Your conference committee (Sens. Klein, Nodland, Horne and Reps. Porter, Weisz, Conrad) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1139-1140, adopt amendments as follows, and place HB 1073 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1139 and 1140 of the House Journal and pages 937 and 938 of the Senate Journal and that Engrossed House Bill No. 1073 be amended as follows:

Page 1, line 15, replace the first "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 17, replace "or" with an underscored comma and after "health" insert ", or the state board of animal health"

Page 1, line 21, replace "or" with an underscored comma and after the second "health" insert ", or the state veterinarian"

Page 3, line 24, after "health" insert "or the state board of animal health"

Page 4, line 5, after "health" insert "or the state board of animal health"

Page 6, line 30, after the first "health" insert "or the state board of animal health"

Renumber accordingly

Engrossed HB 1073 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1073

41

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF HB 1073**

2 **House Human Services Committee**

3 **January 13, 2009**

4

5

6 Good Morning Chairman Weisz and members of the committee. My name
7 is David Hogue. I am a North Dakota Senator representing District 38. I am also a
8 Commissioner of the North Dakota delegation of the National Conference of
9 Commissioners on Uniform State Laws.

10 I support adoption of House Bill 1073. HB 1073 was drafted in response to
11 Hurricanes Katrina and Rita. HB 1073 attempts to facilitate the flow of medical
12 professionals into an area where their services are needed because of declared
13 emergency.

14 In short, HB 1073 provides for reciprocity among state licensing
15 jurisdictions when the host state declares an emergency under its own law. HB
16 1073 authorizes healthcare facilities and disaster relief organizations in affected
17 states (working in cooperation with local emergency response agencies) to use
18 professionals registered with these systems and to rely on the registration
19 systems to confirm that registrants are appropriately licensed and in good-
20 standing. Properly registered professionals will have their licenses recognized in

1 affected states for the duration of emergency declarations, subject to any
2 limitations or restrictions that host states determine may be necessary.

3 Under HB 1073, a health professional licensed in another state is subject to
4 the scope of practice for practitioners licensed in the state with the emergency.
5 In addition, out-of-state professionals may not exceed the scope of practices as
6 established by their licensing jurisdiction, unless expressly authorized to do so by
7 host states. Host states are expressly authorized, however, to modify practice
8 limits if necessary to respond to emergency conditions. Similarly, healthcare
9 facilities and relief organizations in host states are authorized to regulate, limit or
10 restrict the nature, scope and type of services provided by volunteers. All
11 volunteers practicing within a state and organizations using these volunteers are
12 further subject to management and control to the extent provided by other state
13 emergency management laws.

14 An important feature of HB 1073 is that it partially limits the liability of
15 medical professionals for services rendered in the scope of their practice. There
16 are exclusions from immunity for such things as willful misconduct, a breach of
17 contract or a claim submitted by the host organization.

1 Finally, HB 1073 also provides workers compensation coverage for those
2 individuals injured while providing services in the host state.

3



SUMMARY

Uniform Emergency Volunteer Health Practitioners Act

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA), promulgated by the Uniform Law Commission (ULC) in 2006 and amended in 2007, responds to a serious problem caused by a lack of uniformity in state laws that was revealed during the horrific hurricane season of 2005. Doctors, nurses, EMTs, mental health professionals, veterinarians, coroners, and other health professionals providing needed individual and public health services from outside the affected Gulf Coast states who volunteered to provide desperately needed assistance to disaster victims were seriously delayed, and in some cases prevented, from providing services because they were unable to quickly and clearly obtain authorization to practice within the affected states.

Although all 50 states have adopted the Emergency Management Assistance Compact ("EMAC") that provides for the interstate recognition of licenses held by professionals responding to disasters and emergencies, the Compact cannot be efficiently used to supply the "surge capacity" required to deliver health services during emergencies. This occurs because, aside from its application to state government employees, EMAC only extends its benefits to other emergency responders who go through a complicated process of entering into agreements with their home jurisdictions to be deployed to other states pursuant to mutual aid agreements. As a result, very few private sector volunteers were able to be deployed to the Gulf Coast through the Compact and the capacity of state and federal government agencies to immediately provide needed assistance was overwhelmed.

Because of the limited ability of EMAC and federal agencies to quickly supply needed health care personnel, states attempted to facilitate the flow of private sector volunteer practitioners into disaster areas through executive orders and directives issued pursuant to other emergency management laws. Unfortunately, the reliance of states on an *ad hoc* and non-uniform mechanism of executive orders and directives created a system whose parameters and requirements were poorly communicated and not well understood by either volunteers or emergency relief organizations. This lack of coordination seriously delayed the delivery of needed services and left volunteers confused and justifiably anxious about their status. Furthermore, virtually no states were able to provide guidance regarding how in emergency circumstances to address complex and serious legal issues arising due to differences in the scope of practice authorized for many types of health professionals that exist between states. In addition, no rules were established to clarify the jurisdiction of "source state" or "host state" licensing boards and emergency management agencies over volunteer health practitioners.

The objective of the UEVHPA, therefore, is to fill the tragic gap so that in future years health practitioners will be able to be quickly deployed to health care facilities and disaster relief organizations pursuant to clear and well-understood rules that will both meet the needs of volunteers and relief agencies and provide an effective framework to ensure the delivery of high quality care to disaster victims.

UEVHPA establishes a system whereby health professionals may register either in advance of or during an emergency to provide volunteer services in an enacting state. Registration may occur in any state using either governmentally established registration systems, such as the federally funded "ESAR VHP" or Medical Reserve Corps programs, or with registration systems established by disaster relief organizations, licensing boards or national or multi-state systems established by associations of licensing boards or health professionals.

UEVHPA authorizes healthcare facilities and disaster relief organizations in affected states (working in cooperation with local emergency response agencies) to use professionals registered with these systems and to rely on the registration systems to confirm that registrants are appropriately licensed and in good-standing. Properly registered professionals will have their licenses recognized in affected states for the duration of emergency declarations, subject to any limitations or

restrictions that host states determine may be necessary.

UEVHPA also authorizes, but does not require, states affected by disasters to utilize these registration systems to confirm that any professionals practicing during emergencies are licensed and in good-standing. In addition, licensing boards in host states are given jurisdiction over out-of-state volunteers practicing within their boundaries, and are mandated to report any disciplinary actions undertaken to each professional's home jurisdiction. The use of registration systems to confirm registration and of licensing boards to oversee the delivery of services, however, differs from the establishment of individualized credentialing systems that might create a potentially dangerous non-uniform service delivery bottleneck. Instead, the goal of UEVHPA is to establish a robust system with redundant alternatives for the deployment of volunteers that can function even during the most severe disasters in which communication systems are disrupted and government officials are unavailable to provide direction and supervision.

Under UEVHPA, a health professional licensed in another state is subject to the scope of practice for practitioners licensed in the state with the emergency. In addition, out-of-state professionals may not exceed the scope of practices as established by their licensing jurisdiction, unless expressly authorized to do so by host states. Host states are expressly authorized, however, to modify practice limits if necessary to respond to emergency conditions. Similarly, healthcare facilities and relief organizations in host states are authorized to regulate, limit or restrict the nature, scope and type of services provided by volunteers. All volunteers practicing within a state and organizations using these volunteers are further subject to management and control to the extent provided by other state emergency management laws.

In August, 2007, the ULC approved amendments to the UEVHPA to complete previously reserved sections addressing the civil liability of disaster volunteers and the care of volunteers who are injured, become ill or die while delivering emergency services. With regard to civil liability, the act provides two options. In Alternative "A", a volunteer health practitioner is not liable for acts or omissions, nor can any party be held vicariously liable for a volunteer practitioner's acts or omissions, unless the conduct in question rises to the level of willful misconduct, or wanton, grossly negligent, reckless, or criminal conduct, represents an intentional tort; involves a breach of contract, is a claim by a host or deploying entity, or is an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle. Alternative "B" utilizes the same basic exclusions, but caps the compensation a volunteer can receive in connection with the emergency (not including reimbursement of reasonable expenses) at \$500 per year, and does not include the limitation on vicarious liability. It is anticipated that enacting states will choose the alternative that most closely tracks their existing state provisions regard "Good Samaritan" liability protection and/or each state's implementation of federal law on this subject. The 2007 Amendments also provide that a volunteer health practitioner who is not otherwise covered by the workers' compensation laws of the host or deploying state may elect to be deemed an employee of the host state for purposes of making a claim under the host state's workers' compensation system. The act directs enacting states to coordinate implementation of this coverage with other enacting states.

The objective of the Act is to open the door for volunteers, with appropriate skills and expertise, to volunteer services in a state with an emergency as if they are licensed in the state with the emergency. This should mean better, faster services to the victims of disasters such as hurricanes and earthquakes. It would mean more lives saved, more victims treated and more relief to disaster-affected areas, clearly in the interests of the citizens of states which enact the UEVHPA.

The acronym "ESAR-VHP" refers to Emergency Systems for the Advance Registration Systems of Volunteer Health Professionals financed by the U.S. Department of Health and Human Services.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

Page 1, line 1, after "37-17.3" insert "and a new section to chapter 65-06"

Page 1, line 3, after "28-32-01" insert "and section 65-06-05"

Page 1, line 4, after "Act" insert "and workers' compensation coverage of volunteers"

Page 9, line 6, replace "physical or mental injury or disease for which an" with ""compensable injury" as defined under section 65-01-02."

Page 9, remove lines 7 through 9

Page 9, line 10, replace "A" with "As provided under chapter 65-06, a" and replace "dies or is injured" with "suffers an injury"

Page 9, line 17, replace "the workers' compensation law of this" with "title 65"

Page 9, line 18, remove "state"

Page 9, line 20, after "states" insert "as practicable"

Page 9, line 21, replace "the workers' compensation law of this state" with "title 65"

Page 9, line 22, replace ", and may waive or modify requirements for filing," with an underscored period

Page 9, replace lines 23 through 27 with:

"SECTION 3. AMENDMENT. Section 65-06-05 of the North Dakota Century Code is amended and reenacted as follows:

65-06-05. Reimbursement by state for liability in excess of premiums collected. Whenever liability on claims against the fund credited to the classification of volunteer emergency or disaster emergency volunteers and trainees or volunteer health practitioners as defined under chapter 37-17.7 exceeds the amount of premiums paid into ~~such~~ the fund, such excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be reimbursed to the organization for credit to the workforce safety and insurance fund by legislative appropriation.

SECTION 4. A new section to chapter 65-06 of the North Dakota Century Code is created and enacted as follows:

Uniform Emergency Volunteer Health Practitioners Act - Health practitioners. A volunteer health practitioner under section 37-17.3-11 is eligible for benefits as provided under this chapter."

Renumber accordingly



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**Testimony before the
House Human Services Committee
House Bill 1073
January 13, 2009**

Chairman Weisz and members of the Committee. I'm Dean Haas, General Counsel to the North Dakota Medical Association. NDMA supports House Bill 1073, which enacts a uniform state law promulgated by the National Conference of Commissioners on Uniform State Laws in 2006 (amended in 2007), entitled "The Uniform Emergency Volunteer Health Practitioners Act," ("UEVHPA"). In brief, the Act will allow state governments to give reciprocity to other states' professionals providing emergency services so that covered individuals may provide services without meeting the disaster state's licensing requirements.

The Act responds to a serious problem caused by a lack of uniformity in state laws that was revealed during the hurricane season of 2005. Doctors, nurses, EMTs, mental health professionals, veterinarians, coroners, and other health professionals providing needed individual and public health services from outside the affected Gulf Coast states who volunteered to provide desperately needed assistance to disaster victims were seriously delayed, and in some cases prevented, from providing services because they were unable to quickly and clearly obtain authorization to practice within the affected states.

Although all 50 states have adopted the Emergency Management Assistance Compact ("EMAC") that provides for the interstate recognition of licenses held by professionals responding to disasters and emergencies, the Compact cannot be efficiently used to supply the "surge capacity" required to deliver health services during emergencies. This occurs because, aside from its application to state government employees, EMAC only extends its benefits to other

emergency responders who go through a complicated process of entering into agreements with their home jurisdictions to be deployed to other states pursuant to mutual aid agreements. As a result, very few private sector volunteers were able to be deployed to the Gulf Coast through the Compact and the capacity of state and federal government agencies to immediately provide needed assistance was overwhelmed.

The purpose of the UEVHPA therefore, is to fill the gap, developing a uniform and coordinated approach to quickly deploy health practitioners to disaster areas. The UEVHPA is triggered by the declaration of an emergency by an authorized state or local official, is in effect for the duration of that emergency, and applies to all licensed volunteer practitioners who provide health or veterinary services. The receipt of compensation for services does not remove a volunteer from protection by the act, unless they are paid pursuant to a pre-existing employment agreement.

To receive the protections provided under the UEVHPA, the volunteer practitioner must be registered with an authorized registration system. Authorized systems include those that: (1) accept applications for the registration of volunteer health practitioners before or during an emergency; (2) include information about the licensure and good standing of health practitioners, which is accessible by authorized persons; and (3) are capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services are provided.

The UEVHPA provides that while an emergency declaration is in effect, those volunteer health practitioners who are registered with a registration system and licensed and in good standing in the state in which the practitioner's registration is based, may practice in another state to the extent authorized, as if licensed in that state. When volunteer practitioners are deployed to a different state, they must adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of the host state. The UEVHPA does not authorize a practitioner to provide services outside of their scope of practice, even if similarly licensed practitioners in the states would be permitted to provide the services. In addition,

government agencies and host entities may modify or restrict the services that volunteer practitioners may provide.

The Act provides immunity from liability for ordinary negligence to all volunteer health practitioners and immunity from vicarious liability to the entities engaged in deploying and using them.” Exceptions to protection from liability include: (1) willful misconduct or wanton, grossly negligent, reckless, or criminal conduct; (2) an intentional tort; (3) breach of contract; (4) a claim asserted by a host or deploying entity; or (5) an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle. In addition, under the UEVHPA, volunteer health practitioners who are injured or die as a result of providing health or veterinary services are deemed to be an employee of the state for purposes of receiving benefits under the workers’ compensation law. This is important, as many workers’ compensation laws do not cover the activities of volunteers either because they are not considered “employees” or because they are not acting within their scope of employment.

The objective of the Act is to open the door for volunteers, with appropriate skills and expertise, to volunteer services in a state with an emergency as if they are licensed in the state with the emergency. This should mean better, faster services to the victims of disasters such as hurricanes and tornadoes, floods, wildfire, and earthquakes. It would mean more lives saved, more victims treated and more relief to disaster-affected areas, clearly in the interests of the citizens of states which enact the UEVHPA.

We respectfully request the support of the Committee on House Bill 1073.

#3

Testimony

House Bill 1073

House Human Services Committee

January 13, 2009; 9:30 a.m.

North Dakota Department of Health

Good morning, Chairman Weisz and members of the House Human Services Committee. My name is Tim Wiedrich, and I am the section chief of the North Dakota Department of Health's Emergency Preparedness and Response Section. I am here today to provide information about House Bill 1073.

The Emergency Preparedness and Response Section of the North Dakota Department of Health has been preparing the public health and medical community for a coordinated response to large-scale emergencies since our inception in 2002. Two federal grants from the U.S. Department of Health and Human Services fund and establish requirements for those activities. Those grants support the Hospital Preparedness Program and the Public Health Emergency Preparedness Program. Both require the state to develop an Emergency System for Advanced Registration of Volunteer Health Professionals (ESARVP).

The creation and implementation of the North Dakota ESARVP system began in 2004 through a series of planning meetings that resulted in contracts issued by the North Dakota Department of Health to various North Dakota health and medical licensure boards. Those boards include the Board of Nursing, Board of Medical Examiners, Board of Pharmacy, Board of Social Work Examiners, Board of Dental Examiners, Board of Veterinary Medical Examiners, Board of Psychologist Examiners, Board of Respiratory Therapists, and Emergency Medical Services. Through the planning meetings and contracts, each board developed the ability to regularly upload appropriate licensure information electronically to the North Dakota Department of Health for use in the registration and deployment of volunteer health and medical professionals. The federal government has created a detailed set of standards, and North Dakota is in full compliance with those standards.

In addition to the work conducted by the various North Dakota health and medical boards of licensure, we have established an advisory committee that meets monthly to make recommendations about operations of the volunteer registration system. The committee is composed of many of the organizations included in the planning process.

We have three areas of concern regarding this bill. Under the existing ESARVP system, North Dakota has a centralized registration process that is supported through the cooperation of the various health and medical boards of licensure in the provision of appropriate licensure data. Implementation of House Bill 1073 would establish standards for the creation of multiple registries that may or may not meet the federal requirements and that may make it difficult to obtain credentialing information at the time of a disaster since multiple registries would need to be checked. We believe the current centralized approach is more effective and efficient.

Our second concern involves legal protection provided to health and medical volunteer personnel. In the development of the current ESARVP system, North Dakota laws were researched and found to be sufficient for protecting volunteers deployed through the system for emergencies that rise to a Governor-declared emergency, as well as those that do not rise to that level. Passage of this bill could call into question the ability to provide legal protection for health and medical volunteers when a disaster such as a large-scale communicable disease outbreak does not rise to a Governor-declared emergency.

Our third concern involves the registration of non-health and non-medical professionals. Under the current system, we register non-medical support staff since we know they will be an important part of some health and medical operations. Examples include non-medical functions at large-scale vaccination or pharmaceutical distribution sites. The bill if passed in its current form may preclude registration of non-health and medical support staff.

Therefore, we request that you consider the following changes to this bill:

1. Limit the registration process to the existing North Dakota Department of Health Emergency System for Advanced Registration of Volunteer Health Professionals.
2. Expand the coverage to include public health events whether or not an emergency declaration by the Governor is in effect.
3. Expand the coverage to include medical professionals and non-medical support staff deployed through the Emergency System for Advanced Registration of Volunteer Health Professionals.

This concludes my testimony. I am happy to answer any questions you may have.

#4

TESTIMONY - HB 1073
HOUSE COMMITTEE – HUMAN SERVICES
JANUARY 13, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDes) and Director of Homeland Security for the state of North Dakota. My intent is to provide background information from the perspective of NDDes relating to HB 1073.

HB 1073 seeks to establish a volunteer health practitioner registration system and allows those practitioners registered, licensed and in good standing to perform functions within the limits of their licenses and receive the same rights, privileges, and immunities as those practitioners licensed within North Dakota.

The intent of the HB 1073 is sound and during a regional or statewide catastrophic event would be beneficial as long as assigned duties are appropriately designated to provide the most effective management.

NDDes with its current construct, mission, and capability would not be able to implement this program without a change to its organizational structure and fiscal considerations for increased workload. The Planning and Operations Section of the agency consists of six personnel. They specialize in planning for emergency events and managing the State Emergency Operations Center (SEOC). The department retains no discipline specific expertise. During emergencies and disasters, the Planning and Operations Section focuses entirely on finding, coordinating, and providing resources for local emergency operation centers or incident commanders. In the context of this bill, NDDes would either call upon the Department of Health or generate a request to the other 49 states to acquire through the Emergency Management Assistance Compact the required professionals.

While we fully recognize and accept our duties and responsibilities in relationship to planning for and responding to emergency events, the department should not be responsible for authenticating proper medical qualifications or licensing for health practitioners. Those responsibilities are more appropriately placed with another agency that has similar systems.

There is a definite need for a system to expedite the rapid build-up of human health resources in specific geographical regions to support the needs of North Dakota citizens impacted by an emergency or catastrophic event. Currently, the Department of Health's Emergency System for Advanced Registration of Volunteer Health Professionals and the Emergency Management Assistance Compact would be used to support the need. An additional registry system may prove beneficial; however, responsibility needs to be placed where expertise exists.

Thank you, I will try to answer any questions you may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

Page 1, remove the lines 6 through 9 - *not - Emergency Services anymore*

Page 1, line 18, replace "emergency services" with "health"

Page 1, line 20, replace "emergency services" with "health"

Page 1, line 22, after "17.1" insert "and any event, condition, or incident for which the deployment of volunteer health practitioners is determined by be necessary by the state health officer or a local board of health" - *Gap measures*

Page 1, line 24, after "governor" insert ", state health officer, or local board of health"

Page 2, line 7, after "services" insert "and any other individual performing non-medical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the department of health or a local public health unit and deployed through the emergency system for advance registration of volunteer health professionals" - *Cover anyone else*

Page 2, line 29, replace "12." with "13."

Page 3, line 7, replace "13." with "14."

Page 3, line 20, replace "emergency services" with "health"

Page 4, line 1, replace "emergency" with "health"

Page 4, line 2, remove "services"

Page 4, line 7, after the period insert:

"A 'volunteer health practitioner registration system' means with respect to a health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency, the emergency system for advance registration of volunteer health

professionals, the public health emergency volunteer medical reserve corps maintained by the department of health. * Reciprocity.

2."

Page 4, line 7, after the first "system" insert "in any other case"

Page 4, line 31, remove "or" and insert a period.

Page 5, remove lines 1 and 2

Page 5, line 3, replace "2." with "3." and replace "emergency" with "health"

Page 5, line 4, remove "services" and replace "emergency" with "health"

Page 5, line 5, remove "services"

Page 5, line 10, replace "3." with "4."

Page 5, line 10, replace "4." with "5."

Page 6, line 21, replace "emergency services" with "health"

Page 8, line 6, replace "emergency services" with "health"

Page 8, line 7, replace "emergency services" with "health"

Page 9, line 1, replace "protections" with "immunity"

Page 9, line 4, remove ", including section 23-27-04.1 and chapter 32-03.1" * could

Page 9, replace lines 6 through 27 with:

"1. Except as provided in subsection 2, a volunteer health practitioner who not a resident of this state and who dies or is injured as the result of providing health or veterinary services pursuant to this chapter is not considered to be an employee of this state for the purpose of receiving benefits under title 65 and shall be treated for the purposes of North Dakota law as an individual eligible for workers compensation or similar benefits under the law of the state in which the volunteer resides and is qualified for service under an emergency system for advance registration of volunteer health care practitioners established by that state or as otherwise authorized by section 37-17.2-04.

2. A resident of this state, an adjacent state, or Canadian province who is qualified and serving under the emergency system for advance registration of volunteer health practitioners of this state and who dies or is injured as a result of providing health or veterinary services pursuant to this chapter is eligible for benefits as provided under title 65."

Reciprocity - with surrounding States

"**SECTION 3. AMENDMENT.** Section 65-06-05 of the North Dakota Century Code is amended and reenacted as follows:

65-06-05. Reimbursement by state for liability in excess of premiums collected. Whenever liability on claims against the fund credited to the classification of volunteer emergency or disaster emergency volunteers and trainees or volunteer health practitioners as defined under chapter 37-17.7 exceeds the amount of premiums paid into ~~such the~~ fund, such excess liabilities ~~shall be~~ are a general obligation of the state of North Dakota and must be reimbursed to the organization for credit to the workforce . safety and insurance fund by legislative appropriation.

SECTION 4. A new section to chapter 65-06 of the North Dakota Century Code is created and enacted as follows:

Uniform Emergency Volunteer Health Practitioners Act - Health practitioners. A volunteer health practitioner under section 37-17.3-11 is eligible for benefits as provided under this chapter."

Renumber accordingly

Resident

(2)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

↓ Page 3, line 13 replace "while" with "during" and remove "declaration"

↓ Page 3, line 14 remove "is in effect"

↓ page 3 line 17, replace "while" with "during"

↓ page 3 line 18, remove "declaration is in effect"

↓ page 3, line 20, replace "While" with "During" and remove "declaration is in effect"

↓ page 5, lines 3, replace "While" with "During" and remove "declaration is in effect"

page 5 lines 18, replace "While" with "During" and remove "declaration is in effect"

page 6, line 11, replace "while" with "during" and remove "declaration is in effect"

Renumber accordingly

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF HB 1073**

2 **Senate Industry Business and Labor Committee**

3 **March 10, 2009**

4
5
6 Good Morning Chairman Klein and members of the committee. My name
7 is David Hogue. I am a North Dakota Senator representing District 38. I am also a
8 Commissioner of the North Dakota delegation of the National Conference of
9 Commissioners on Uniform State Laws.

10 I support adoption of House Bill 1073. HB 1073 was drafted in response to
11 Hurricanes Katrina and Rita. HB 1073 attempts to facilitate the flow of medical
12 professionals into an area where their services are needed because of declared
13 emergency.

14 In short, HB 1073 provides for reciprocity among state licensing
15 jurisdictions when the host state declares an emergency under its own law. HB
16 1073 authorizes healthcare facilities and disaster relief organizations in affected
17 states (working in cooperation with local emergency response agencies) to use
18 professionals registered with these systems and to rely on the registration
19 systems to confirm that registrants are appropriately licensed and in good-
20 standing. Properly registered professionals will have their licenses recognized in

1 affected states for the duration of emergency declarations, subject to any
2 limitations or restrictions that host states determine may be necessary.

3 Under HB 1073, a health professional licensed in another state is subject to
4 the scope of practice for practitioners licensed in the state with the emergency.

5 In addition, out-of-state professionals may not exceed the scope of practices as
6 established by their licensing jurisdiction, unless expressly authorized to do so by
7 host states. Host states are expressly authorized, however, to modify practice
8 limits if necessary to respond to emergency conditions. Similarly, healthcare
9 facilities and relief organizations in host states are authorized to regulate, limit or
10 restrict the nature, scope and type of services provided by volunteers. All
11 volunteers practicing within a state and organizations using these volunteers are
12 further subject to management and control to the extent provided by other state
13 emergency management laws.

14 An important feature of HB 1073 is that it partially limits the liability of
15 medical professionals for services rendered in the scope of their practice. There
16 are exclusions from immunity for such things as willful misconduct, a breach of
17 contract or a claim submitted by the host organization.

1 The House provided some valuable amendments to this bill. The House
2 formed a subcommittee to make suggested amendments. I might add the House
3 Human Services Committee enjoys the expertise of a mortician who has served in
4 a declared emergency out of state as well as the operator of an emergency
5 service.

6 Notwithstanding the House's important contributions to this bill, I
7 respectfully disagree with one change concerning workers compensation
8 coverage. The House amendment provides no coverage for out of state
9 volunteers. Providing certainty of coverage was one of the important features
10 which stimulated the Uniform Law Commission to revise this uniform act. Please
11 reconsider this provision.

12 One of the other House amendments broadens the events that would be
13 covered to include disasters as determined by not only the governor, but the
14 state health officer or a local board of health.

15 Thank you for your consideration.



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**Testimony in support of
House Bill 1073
Senate Industry, Business and Labor Committee
March 10, 2009**

Chairman Klein and members of the Committee. I'm Dean Haas, General Counsel to the North Dakota Medical Association. NDMA supports House Bill 1073, which enacts a uniform state law promulgated by the National Conference of Commissioners on Uniform State Laws in 2006 (amended in 2007), entitled "The Uniform Emergency Volunteer Health Practitioners Act," ("UEVHPA"). In brief, the Act will allow state governments to give reciprocity to other states' professionals providing emergency services so that covered individuals may provide services without meeting the disaster state's licensing requirements.

The Act responds to a serious problem caused by a lack of uniformity in state laws that was revealed during the hurricane season of 2005. Doctors, nurses, EMTs, mental health professionals, veterinarians, coroners, and other health professionals providing needed individual and public health services from outside the affected Gulf Coast states who volunteered to provide desperately needed assistance to disaster victims were seriously delayed, and in some cases prevented, from providing services because they were unable to quickly and clearly obtain authorization to practice within the affected states.

Although all 50 states have adopted the Emergency Management Assistance Compact ("EMAC") that provides for the interstate recognition of licenses held by professionals responding to disasters and emergencies, the Compact cannot be efficiently used to supply the "surge capacity" required to deliver health services during emergencies. This occurs because, aside from its application to state government employees, EMAC only extends its benefits to other

emergency responders who go through a complicated process of entering into agreements with their home jurisdictions to be deployed to other states pursuant to mutual aid agreements. As a result, very few private sector volunteers were able to be deployed to the Gulf Coast through the Compact and the capacity of state and federal government agencies to immediately provide needed assistance was overwhelmed.

The purpose of the UEVHPA therefore, is to fill the gap, developing a uniform and coordinated approach to quickly deploy health practitioners to disaster areas. The UEVHPA is triggered by the declaration of an emergency by an authorized state or local official. The House amended the uniform Act, providing a broad definition of emergency to as an event or condition for which the deployment of volunteer health practitioners is determined to be necessary. (Page 1, lines 18-20). The protections in the Act are in effect for the duration of that emergency, and applies to all licensed volunteer practitioners who provide health or veterinary services. The House amended the definition of "health practitioner" to include other individuals performing nonmedical support disaster or emergency services. (Page 2, lines 6-11). The receipt of compensation for services does not remove a volunteer from protection by the act, unless they are paid pursuant to a pre-existing employment agreement.

To receive the protections provided under the UEVHPA, the volunteer practitioner must be registered with an authorized registration system. The House amended the uniform Act, providing that for North Dakota licensed volunteers, the volunteer health registration system is the emergency system for advance registration maintained by the State Department of Health. (Page 4, lines 11-16). For other practitioners, authorized systems include those that: (1) accept applications for the registration of volunteer health practitioners before or during an emergency; (2) include information about the licensure and good standing of health practitioners, which is accessible by authorized persons; and (3) are capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services are provided.

The UEVHPA provides that while an emergency declaration is in effect, those volunteer health practitioners who are registered with a registration system and licensed and in good standing in the state in which the practitioner's registration is based, may practice in another state to the extent authorized, as if licensed in that state. When volunteer practitioners are deployed to a different state, they must adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of the host state. The UEVHPA does not authorize a practitioner to provide services outside of their scope of practice, even if similarly licensed practitioners in the states would be permitted to provide the services. In addition, government agencies and host entities may modify or restrict the services that volunteer practitioners may provide.

The Act provides immunity from liability for ordinary negligence to all volunteer health practitioners and immunity from vicarious liability to the entities engaged in deploying and using them." Exceptions to protection from liability include: (1) willful misconduct or wanton, grossly negligent, reckless, or criminal conduct; (2) an intentional tort; (3) breach of contract; (4) a claim asserted by a host or deploying entity; or (5) an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle.

The House amended the Uniform's Act's provision of workers compensation coverage to out-of-state health care practitioners, providing instead that workers' compensation coverage, if any, must be under the state act in which the volunteer is qualified for service. (Page 9, lines 13-20). However, North Dakota licensed health care practitioners are afforded workers compensation coverage. (Page 9, lines 21-26). The change in workers compensation coverage is a significant one, because many state acts do not provide any coverage for volunteers either because they are not considered "employees" or because they are not acting within their scope of employment. The changes in the uniform act may mean that some out of state health care volunteers will not have the benefit of workers compensation coverage.

The objective of the Act is to open the door for volunteers, with appropriate skills and expertise, to volunteer services in a state with an emergency as if they are licensed in the state with the emergency. This should mean better, faster services to the victims of

disasters such as hurricanes and tornadoes, floods, wildfire, and earthquakes. It would mean more lives saved, more victims treated and more relief to disaster-affected areas, clearly in the interests of the citizens of states which enact the UEVHPA.

We respectfully request the support of the Committee on House Bill 1073.

Roger Johnson
AGRICULTURE COMMISSIONER

Dr. Susan Keller
STATE VETERINARIAN

Dr. Beth Carlson
DEPUTY STATE VETERINARIAN

Dr. Jesse Vollmer
ASSISTANT STATE VETERINARIAN

Nathan Boehm, Mandan
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**Testimony of Jesse L. Vollmer, DVM
Assistant State Veterinarian
House Bill 1073
Senate Industry, Business and Labor
Roosevelt Room
March 10, 2009**

Honorable chairman Klein, members of the committee, I am Dr. Jesse L. Vollmer, Assistant State Veterinarian with the North Dakota State Board of Animal Health, and the North Dakota Department of Agriculture. I am here today to testify in support of this HB 1073 and to offer eight amendments to the bill.

This is a very good bill and clarifies issues that have needed attention. Since the bill covers both the medical and veterinary field volunteers, it is only prudent that the ND State Board of Animal Health be listed as a responsible agency as well as the Department of Health. As the bill is worded now, the State Board of Animal Health would have an additional layer of bureaucracy present every time we request the assistance of volunteers. This would include the Reserve Veterinary Corps that was developed and has been maintained since 2002. It would be terribly ineffective to operate a Veterinary Emergency the way a human health emergency is operated and vice versa.

The amendments offered allow the State Board of Animal Health and/or the State Veterinarian to have the same privileges the state department of health and the chief health official have in responding to an emergency. For the above reasons, I urge a do pass on HB 1073 and implementation of the attached amendments.

Thank you and I will answer any questions you have at this time.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1073

Page 1, line 15, after "government" insert "," and remove "or"

Page 1, line 15, after "health" insert ", or State Board of Animal Health"

Page 1, line 17, after "government" insert "," and remove "or"

Page 1, line 17, after "health" insert ", or State Board of Animal Health"

Page 1, line 21, after "officer" insert "state veterinarian,"

Page 3, line 24, after "health" insert ", or State Board of Animal Health"

Page 4, line 5, after "health" insert ", or State Board of Animal Health"

Page 6, line 30, after "health" insert ", or State Board of Animal Health"

Klein, Jerry J.

From: Halvorson, John L.
Sent: Tuesday, March 17, 2009 1:38 PM
To: Wahlin, Timothy J.; Klein, Jerry J.
Subject: RE:

I agree. That John Halvorson will always be an issue.

From: Wahlin, Timothy J.
Sent: Tuesday, March 17, 2009 1:35 PM
To: Klein, Jerry J.
Cc: Halvorson, John L.
Subject: RE:

There is not anything we do will address the "John Halvorson" issue. But.....

The amendments will delete the references to injuries and replace with title 65 language defining injuries. This will keep the bill from possibly broadening our coverage's. This is the area of our greatest concern.

Next they will adjust the requirements that WSI actively "promote uniformity" with other jurisdictions as well as adjusting our requirements to match filings in other states. This, while laudable, is in most all cases impracticable since those other jurisdictions are controlled by radically different laws.

Finally, the bill grants us authority to in these cases waive or modify the filing requirements. We don't have that authority in other cases, and frankly, we don't want it. WSI would get itself into the practice of "modifying" for this and not for that and pretty soon we are "playing favorites" or worse getting claims where we don't have the proper information to adjudicate them. Our filing requirements are so minimal, that if an IW isn't willing to provide us that information, we can't possibly evaluate their claim.

What they do not do is to adjust the extension of the underlying coverage to out of state volunteers. Whether it is in state or both in and out of state, either way, we can handle the coverage issues.

Timothy J. Wahlin
Chief of Injury Services
Workforce Safety & Insurance ND
email twahlin@nd.gov
(701)328-7201

From: Klein, Jerry J.
Sent: Tuesday, March 17, 2009 12:50 PM
To: Wahlin, Timothy J.
Subject:

Hi Tim,

Could you give me an explanation as to what the House amendments do? We are taking the bill back to committee today and I want to fix the bill. Does it address the John Halvorson issues?

**WSI Amendments to First Engrossment with Senate Amendments
HB 1073**

Page 9, line 19, overstrike "dies or"

Page 9, line 22, replace "the workers compensation law of this state" with "title 65"

Page 9, line 28, replace "a physical or mental injury or disease for which an" with "a compensable injury as defined under section 65-01-02."

Page 9, remove lines 29 through 31

Page 10, line 2, after "states," insert "as practicable"

Page 10, line 3, replace "the workers compensation law of this state" with "title 65"

Page 10, line 4, replace ", and may waive or modify requirements for filing," with an underscored period

Page 10, remove lines 5 through 9

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1073

Page 9, replace lines 13 through 26 with:

1. In this section, "injury" means a physical or mental injury or disease for which an employee of this state who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under the workers' compensation law of this state.
2. A volunteer health practitioner who dies or is injured as the result of providing health or veterinary services pursuant to this chapter is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under the workers' compensation law of this state if:
 - a. The practitioner is not otherwise eligible for such benefits for the injury or death under the law of this or another state; and
 - b. The practitioner, or in the case of death the practitioner's personal representative, elects coverage under the workers' compensation law of this state by making a claim under that law.
3. Workforce safety and insurance shall adopt rules, enter agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation law of this state by volunteer health practitioners who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the practitioners. To promote uniformity of application of this chapter with other states that enact similar legislation, workforce safety and insurance shall consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states."

Renumber accordingly