

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1073

Introduced by

Human Services Committee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. In this section:

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

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

2. This chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

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

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

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

3. The department of emergency services may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of chapter 28-32.

4. A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to this chapter.

5. A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner has reason to

1 know of a limitation, modification, or restriction or that a similarly licensed
2 practitioner in this state would not be permitted to provide a service if:

3 a. The practitioner knows the limitation, modification, or restriction exists or that
4 a similarly licensed practitioner in this state would not be permitted to provide
5 the service; or

6 b. From all the facts and circumstances known to the practitioner at the relevant
7 time, a reasonable person would conclude that the limitation, modification, or
8 restriction exists or that a similarly licensed practitioner in this state would not
9 be permitted to provide the service.

10 6. In addition to the authority granted by law of this state other than this chapter to
11 regulate the conduct of health practitioners, a licensing board or other disciplinary
12 authority in this state:

13 a. May impose administrative sanctions upon a health practitioner licensed in
14 this state for conduct outside of this state in response to an out-of-state
15 emergency;

16 b. May impose administrative sanctions upon a practitioner not licensed in this
17 state for conduct in this state in response to an in-state emergency; and

18 c. Shall report any administrative sanctions imposed upon a practitioner licensed
19 in another state to the appropriate licensing board or other disciplinary
20 authority in any other state in which the practitioner is known to be licensed.

21 7. In determining whether to impose administrative sanctions under subsection 6, a
22 licensing board or other disciplinary authority shall consider the circumstances in
23 which the conduct took place, including any exigent circumstances, and the
24 practitioner's scope of practice, education, training, experience, and specialized
25 skill.

26 **37-17.3-08. Relation to other laws.**

27 1. This chapter does not limit rights, privileges, or immunities provided to volunteer
28 health practitioners by laws other than this chapter. Except as otherwise provided
29 in subsection 2, this chapter does not affect requirements for the use of health
30 practitioners pursuant to the emergency management assistance compact.

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

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

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

- 12 1. Subject to subsection 3, a volunteer health practitioner who provides health or
13 veterinary services pursuant to this chapter is not liable for damages for an act or
14 omission of the practitioner in providing those services.
- 15 2. A person is not vicariously liable for damages for an act or omission of a volunteer
16 health practitioner if the practitioner is not liable for the damages under
17 subsection 1.
- 18 3. This section does not limit the liability of a volunteer health practitioner for:
19 a. Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;
20 b. An intentional tort;
21 c. Breach of contract;
22 d. A claim asserted by a host entity or by an entity located in this or another
23 state which employs or uses the services of the practitioner; or
24 e. An act or omission relating to the operation of a motor vehicle, vessel, aircraft,
25 or other vehicle.
- 26 4. A person that, pursuant to this chapter, operates, uses, or relies upon information
27 provided by a volunteer health practitioner registration system is not liable for
28 damages for an act or omission relating to that operation, use, or reliance unless
29 the act or omission is an intentional tort or is willful misconduct or wanton, grossly
30 negligent, reckless, or criminal conduct.

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

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

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