



House of Representatives

General Assembly

File No. 563

January Session, 2009

Substitute House Bill No. 5893

House of Representatives, April 8, 2009

The Committee on Public Health reported through REP. RITTER of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING AN EMERGENCY RESPONSE SYSTEM OF VOLUNTEER HEALTH CARE PRACTITIONERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2010*) As used in this section
2 and sections 2 to 6, inclusive, of this act:

3 (1) "Disaster relief organization" means an entity that: (A) Provides
4 emergency or disaster relief services that include health care services
5 provided by volunteer health care practitioners, and (B) is designated
6 or recognized as a provider of such services pursuant to a disaster
7 response and recovery plan adopted by any agency of the federal
8 government, the Department of Public Health or the Department of
9 Emergency Management and Homeland Security; or regularly plans
10 and conducts its activities in coordination with any agency of the
11 federal government, the Department of Public Health or the
12 Department of Emergency Management and Homeland Security.

13 (2) "Emergency" has the same meaning as in section 28-1 of the

14 general statutes, and includes a public health emergency, as defined in
15 section 19a-131 of the general statutes.

16 (3) "Emergency declaration" means the Governor's declaration of a
17 civil preparedness emergency pursuant to section 28-9 of the general
18 statutes or of a public health emergency pursuant to section 19a-131a
19 of the general statutes.

20 (4) "Emergency Management Assistance Compact" means the
21 interstate compact established under section 28-23a of the general
22 statutes.

23 (5) "Entity" means a person other than a natural person.

24 (6) "Health care practitioner" means an individual licensed under
25 chapters 370, 378, 378a, 383, 384d and 400j of the general statutes or the
26 laws of another state to provide health care services, mental health
27 services, emergency medical services through a licensed emergency
28 medical services provider, or general or specialized surgery.

29 (7) "Health care services" means any care, service or treatment of an
30 illness or dysfunction of, or injury to, the human body, including, but
31 not limited to: (A) Preventive, diagnostic, therapeutic, rehabilitative,
32 maintenance or palliative care; (B) counseling, assessment, procedures
33 or other mental health services; and (C) the sale or dispensing of a
34 drug, a device, equipment or another item to an individual in
35 accordance with a prescription.

36 (8) "Host entity" means an entity operating in this state which uses
37 volunteer health care practitioners to respond to an emergency.

38 (9) "License" means state authorization to provide health care
39 services or authorization to provide health care services based upon a
40 national certification issued by a public or private entity.

41 (10) "Person" means any natural person, corporation, partnership,
42 limited liability company, unincorporated business, government or
43 governmental entity or any other legal or commercial entity.

44 (11) "Scope of practice" means the extent of the authorization to
45 provide health care services granted to a health care practitioner by a
46 license issued to the practitioner.

47 (12) "State" means a state of the United States, the District of
48 Columbia, Puerto Rico, the United States Virgin Islands or any
49 territory or insular possession subject to the jurisdiction of the United
50 States.

51 (13) "Volunteer health care practitioner" means a health care
52 practitioner who provides health care services, whether or not the
53 practitioner receives compensation for those services, but does not
54 include a health care practitioner who receives compensation pursuant
55 to a preexisting employment relationship with a host entity or affiliate
56 which requires the practitioner to provide health care services in this
57 state, unless such practitioner is not a resident of this state and is
58 employed by a disaster relief organization providing services in this
59 state while an emergency declaration is in effect.

60 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) While an emergency
61 declaration is in effect, a volunteer health care practitioner who is
62 licensed in another state and registered in accordance with this section
63 may provide health care services in this state as if the practitioner were
64 licensed to provide such services in this state, provided such
65 practitioner's license has not been suspended, revoked, voluntarily
66 terminated under threat of sanction or subject to an agency order
67 limiting or restricting the scope of practice.

68 (b) A volunteer health care practitioner shall register with a
69 volunteer health care practitioner system organization in order to
70 provide health care services in this state during an emergency. Any
71 such organization shall: (1) Accept applications for the registration of
72 volunteer health care practitioners prior to or during an emergency; (2)
73 include information about the licensure and good standing of
74 volunteer health care practitioners that is accessible by authorized
75 persons; (3) be capable of confirming the accuracy of information
76 concerning whether a volunteer health care practitioner is licensed and

77 in good standing in another state before health care services are
78 provided under this section; and (4) meet any one of the following
79 conditions: (A) Be an emergency system for advance registration of
80 volunteer health care practitioners established by a state and funded
81 through the Health Resources Services Administration under Section
82 319I of the Public Health Services Act, 42 USC 247d-7b, as amended
83 from time to time; (B) be a local unit consisting of trained and
84 equipped emergency response, public health and medical personnel
85 formed pursuant to Section 2801 of the Public Health Services Act, 42
86 USC 300hh, as amended from time to time; (C) be operated by (i) a
87 disaster relief organization; (ii) a licensing board; (iii) a national or
88 regional association of licensing boards or health care practitioners;
89 (iv) a health care facility that provides comprehensive inpatient and
90 outpatient health care services, including a tertiary care and teaching
91 hospital; or (v) a governmental entity; or (D) be designated by the
92 Department of Public Health or the Department of Emergency
93 Management and Homeland Security as a volunteer registration
94 system organization for purposes of this section.

95 (c) Upon the request of the Commissioner of Public Health, the
96 Commissioner of Emergency Management and Homeland Security or
97 a designee of said commissioners, the volunteer registration system
98 organization shall confirm whether a volunteer health care practitioner
99 is registered in accordance with subsection (a) of this section and
100 whether the system indicates that such practitioner is licensed and in
101 good standing.

102 (d) This section shall not be construed to authorize a volunteer
103 health care practitioner to provide health care services in this state that
104 are outside such practitioner's scope of practice in the state where such
105 practitioner is licensed, or to provide health care services that are
106 outside of the scope of practice for a practitioner holding a comparable
107 license in this state.

108 Sec. 3. (NEW) (*Effective January 1, 2010*) (a) While an emergency
109 declaration is in effect, the Department of Public Health and the

110 Department of Emergency Management and Homeland Security may
111 issue an order to limit, restrict or otherwise regulate the practice of
112 volunteer health care practitioners. Such limitations and restrictions
113 may include, but are not limited to: (1) The duration of practice by
114 volunteer health care practitioners; (2) the geographical areas in which
115 volunteer health care practitioners may practice; (3) the types of
116 volunteer health care practitioners who may practice; and (4) any other
117 matters necessary to coordinate the provision of health care services
118 during the emergency.

119 (b) A host entity that uses volunteer health care practitioners to
120 provide health care services in this state shall: (1) Consult and
121 coordinate its activities with the Department of Public Health and the
122 Department of Emergency Management and Homeland Security to the
123 extent practicable to provide for the efficient and effective use of
124 volunteer health care practitioners; and (2) comply with any order of
125 the Commissioner of Public Health or the Commissioner of Emergency
126 Management and Homeland Security.

127 Sec. 4. (NEW) (*Effective January 1, 2010*) (a) A volunteer health care
128 practitioner who fails to register pursuant to the provisions of section 2
129 of this act or violates any provision of sections 2 and 3 of this act shall
130 have engaged in unauthorized practice if the practitioner had reason to
131 know of any limitation, modification or restriction under section 2 or 3
132 of this act or if a similarly licensed practitioner in this state would not
133 be permitted to provide such health care services. For the purposes of
134 this section, a volunteer health care practitioner has reason to know of
135 a limitation, modification or restriction or that a similarly licensed
136 practitioner in this state would not be permitted to provide a health
137 care service if such practitioner had actual knowledge, or if from all the
138 facts and circumstances known to the practitioner at the relevant time,
139 a reasonable person would conclude that the limitation, modification
140 or restriction exists or that a similarly licensed practitioner in this state
141 would not be permitted to provide the health care service.

142 (b) A licensing board or other disciplinary authority in this state

143 may impose administrative sanctions upon a volunteer health care
144 practitioner licensed in this state for conduct outside of this state in
145 response to an out-of-state emergency.

146 (c) A licensing board or other disciplinary authority in this state
147 may impose administrative sanctions upon a volunteer health care
148 practitioner not licensed in this state for conduct in this state in
149 response to an emergency in this state.

150 (d) In determining whether to impose administrative sanctions
151 under subsection (b) or (c) of this section, a licensing board or other
152 disciplinary authority shall consider the circumstances in which the
153 conduct took place, including any exigent circumstances, and the
154 practitioner's scope of practice, education, training, experience and
155 specialized skill.

156 (e) Such licensing board or other authority shall report any
157 administrative sanctions imposed upon a volunteer health care
158 practitioner licensed in another state to the appropriate licensing board
159 or other disciplinary authority in the other state in which such
160 practitioner is known to be licensed.

161 Sec. 5. (NEW) (*Effective January 1, 2010*) (a) Sections 1 to 4, inclusive,
162 of this act shall not be construed to limit the rights, privileges or
163 immunities provided to volunteer health care practitioners by any
164 other provision of the general statutes. Except as otherwise provided
165 in subsection (b) of this section, sections 1 to 4, inclusive, of this act
166 shall not affect requirements for the use of volunteer health care
167 practitioners pursuant to the Emergency Management Assistance
168 Compact.

169 (b) The Department of Public Health or the Department of
170 Emergency Management and Homeland Security, pursuant to the
171 Emergency Management Assistance Compact, may incorporate into
172 the emergency forces of this state volunteer health care practitioners
173 who are not officers or employees of this state, a political subdivision
174 of this state or a municipality or other local government within this

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill seeks to establish a volunteer health care practitioner system organization to implement an emergency system for advance registration to be designated by the Department of Public Health (DPH) or the Department of Emergency Management and Homeland Security (DEMHS) and does not appropriate funds for this organization. Costs for the implementation of such a system would be significant (see below):

Item	FY 10	FY 11
1.0 Information Technology Analyst	\$76,112	\$76,112
1.0 Office Assistant	\$41,643	\$41,643
1.0 Health Program Assistant	\$55,812	\$55,812
Equipment (computers, etc.)	\$2,310	\$0
Other Expenses (software, outreach materials, supplies)	\$62,910	\$62,910
Other Expenses (database)	\$550,000	50,000
TOTAL	\$788,787	\$286,477

As funding is not appropriated for these purposes, DPH and DEMHS are not anticipated to designate such an organization and the system is not anticipated to be established.

The Out Years

None

OLR Bill Analysis**sHB 5893*****AN ACT ESTABLISHING AN EMERGENCY RESPONSE SYSTEM OF VOLUNTEER HEALTH CARE PRACTITIONERS.*****SUMMARY:**

This bill creates a framework for health care practitioners licensed out-of-state to provide volunteer services in Connecticut during an emergency declared by the governor, provided they meet certain criteria. The practitioners must:

1. be duly licensed,
2. be registered with a volunteer health care practitioner system organization, and
3. provide their services subject to any limitations set by the Department of Public Health (DPH) or Department of Emergency Management and Homeland Security (DEMHS).

The bill prohibits the practitioners from providing health care services outside the scope of their practice or that of a comparable Connecticut licensee. (But it is unclear which state's scope of practice prevails, if different.)

The bill allows the appropriate licensing board or other disciplinary authority to administratively sanction practitioners for unauthorized actions.

It allows DPH or DEMHS to adopt implementing regulations.

EFFECTIVE DATE: January 1, 2010

PRACTICE DURING EMERGENCY DECLARATION

The bill allows out-of-state, volunteer health care practitioners, during a declared emergency (i.e., a civil preparedness or public health emergency declared by the governor), to provide health care services as if licensed in Connecticut, provided they meet licensing, registration, and other criteria.

The bill defines a “health care practitioner” as anyone licensed out-of-state to provide health care, mental health, or emergency medical services through a licensed medical services provider, or general or specialized surgery. The definition also includes anyone licensed in Connecticut to provide health care services in specified areas. (But it is unclear how the bill applies to Connecticut licensees.)

The bill defines a “volunteer health care practitioner” as a health care practitioner who provides health care services, whether or not for compensation. It includes out-of-state residents employed by disaster relief organizations providing services in Connecticut during an emergency declaration. But it does not include practitioners compensated under a preexisting employment relationship requiring them to provide health care services in Connecticut.

The bill defines “health care services” as care, service, or treatment of an illness or dysfunction of, or injury to, the human body, including: (1) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; (2) counseling, assessment, procedures or other mental health services; and (3) the selling or dispensing of prescription devices, drugs, equipment, or other items.

LICENSE AND SCOPE OF PRACTICE REQUIREMENTS

The bill requires volunteer health care practitioners to be licensed. It bars them from providing health care services under a license that is suspended, revoked, voluntarily terminated, under threat of sanction, or subject to an agency order limiting or restricting the scope of practice.

The practitioners may provide only those health care services that are within (1) their scope of practice in the state where they are

licensed or (2) the scope of practice for a comparable Connecticut licensee.

REGISTRATION REQUIREMENT

A volunteer health care practitioner must register with a volunteer health care practitioner system organization in order to provide health care services during an emergency (see COMMENT). The organization must (1) accept registration applications before or during an emergency, (2) include information about the licensure and good standing of volunteer health care practitioners that is accessible by authorized persons, and (3) be able to confirm whether a volunteer health care practitioner is licensed and in good standing in another state before he or she can provide health care services. The organization must also 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 federal Health Resources Services Administration (42 USC § 247d-7b);
2. be a local emergency response, public health, and medical personnel unit formed under federal law (42 USC § 300hh);
3. be operated by a (a) disaster relief organization; (b) licensing board; (c) national or regional association of licensing boards or health care practitioners; (d) hospital, including a tertiary care and teaching hospital; or (e) government entity; or
4. be designated by DPH or DEMHS as a volunteer registration system organization.

If the DPH or DEMHS commissioner or a designee asks the organization, it must confirm whether a practitioner is registered and the system indicates that the practitioner is licensed and in good standing.

LIMITS ON VOLUNTEER HEALTH CARE PRACTITIONERS

During an emergency declaration, DPH and DEMHS may issue orders to limit, restrict, or otherwise regulate volunteer health care practitioners. They may, among other things, limit (1) how long they can practice; (2) where they may practice; (3) the practitioners who can serve; and (4) any other matters necessary to coordinate the provision of health care services during the emergency.

An entity that uses volunteer health care practitioners to provide health care services in Connecticut (host entity) must (1) consult with DPH and DEMHS and, to the extent practicable, coordinate its activities with the agencies to use the practitioners efficiently and effectively and (2) comply with any order from the DPH or DEMHS commissioner.

ADMINISTRATIVE SANCTIONS

A volunteer health care practitioner who provides health care services without being licensed or registered, in violation of a DPH or DEMHS order, or outside the scope of his or her practice or of a comparable Connecticut licensee, is deemed to have “engaged in unauthorized practice.” For a violation to occur, the practitioner must have had reason to know of any limitation, modification, or restriction on providing the services or that a similarly licensed Connecticut practitioner would not be permitted to provide such services. Under the bill, a practitioner has reason to know these things if, from all the facts and circumstances known to him or her at the relevant time, a reasonable person would conclude that providing the services was impermissible.

The bill allows a licensing board or other Connecticut disciplinary authority (e.g., DPH) to impose administrative sanctions on (1) state-licensed, volunteer health care practitioners for conduct related to an out-of-state emergency and (2) out-of-state, licensed practitioners for conduct related to an in-state emergency. In determining whether to impose such sanctions, the board or authority must consider the circumstances surrounding the conduct, including any exigent circumstances, and the practitioner's scope of practice, education,

training, experience, and specialized skill.

The board or other authority must report any administrative sanctions it imposes on an out-of-state licensee to the appropriate licensing board or disciplinary authority in the licensee's state.

CONSTRUCTION

The bill does not limit the rights, privileges, or immunities provided to volunteer health care practitioners under any other provision of law.

It permits DPH and DEMHS, pursuant to the Emergency Management Assistance Compact (EMAC), to incorporate into the state's emergency forces volunteer health care practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state. Except for this, the bill cannot affect requirements for the use of volunteer health care practitioners under EMAC.

IMPLEMENTING REGULATIONS

The bill allows DPH or DEMHS to adopt implementing regulations. The regulations "must reference the coordination and implementation requirements prescribed in EMAC." In adopting the regulations, the departments must consider comparable regulations of similarly empowered agencies in other states in order to achieve uniformity and consistency to a reasonable extent.

COMMENT

Emergency and Emergency Declaration

The bill appears to use these terms synonymously. But "an emergency declaration" means the governor's declaration of a civil preparedness or public health emergency. An "emergency" is any instance in which the President determines that federal assistance is needed to supplement state and local efforts and capabilities to save lives and protect property, public health and safety; or to avert or lessen the threat of a disaster or catastrophe. It includes a public health emergency.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Change of Reference

Yea 17 Nay 4 (03/10/2009)

Public Health Committee

Joint Favorable Substitute

Yea 29 Nay 1 (03/23/2009)