

# HOUSE BILL REPORT

## ESSB 5990

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**As Passed House:**  
March 2, 2018

**Title:** An act relating to the uniform emergency volunteer health practitioners act.

**Brief Description:** Enacting the uniform emergency volunteer health practitioners act.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Van De Wege, Pedersen and Kuderer; by request of Uniform Law Commission).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/16/18, 2/21/18 [DP].

**Floor Activity:**

Passed House: 3/2/18, 95-3.

**Brief Summary of Engrossed Substitute Bill**

- Authorizes the Department of Health (DOH) to regulate the use of out-of-state licensed volunteer health and veterinary practitioners during a declared emergency.
- Authorizes registered volunteer health and veterinary practitioners licensed in other states to practice in Washington during a declared emergency.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 17 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

**Staff:** Kim Weidenaar (786-7120).

**Background:**

Uniform Emergency Volunteer Health Practitioners Act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In 2006 the Uniform Law Commission proposed the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) to provide a process for out-of-state medical professionals, not covered by agreements such as the Emergency Management Assistance Compact (EMAC), to provide services during a declared emergency. Fifteen states, the District of Columbia, and the United States Virgin Islands have enacted a version of the UEVHPA.

#### Emergency Management Assistance Compact.

The EMAC is a mutual aid agreement between states and territories. It enables states to share resources during natural and man-made disasters. All 50 states have joined the EMAC and Washington joined in 2001. When a disaster occurs, and the Governor declares a state of emergency, the state assesses its resource needs and identifies shortfalls for which assistance will be requested. States with available resources negotiate costs with the affected state through the EMAC network, and assisting states that commit to an agreement then mobilize and deploy the agreed-upon resources. The EMAC provides for interstate recognition of licenses held by professionals responding to an emergency in the state, but only applies to professionals deployed through the compact.

#### Emergency Management Act.

The state's Emergency Management Act (EMA) establishes a comprehensive program of emergency management in the state, which is administered by the Military Department (Department). As part of the emergency management program, each county, city, and town must establish a local organization or join a joint local organization for emergency management. The EMA grants immunity from liability for the acts of covered volunteer emergency workers while engaged in a covered activity. "Covered activity" means providing assistance or transportation during an emergency or disaster or a search and rescue, or participating in a training or exercise in preparation for an emergency or disaster or a search and rescue. Covered volunteer emergency workers are volunteers who are registered as emergency workers with the local emergency management organization or the Department.

The covered volunteer emergency worker immunity extends to:

- the covered volunteer emergency worker;
- the covered volunteer emergency worker's supervisor and employer;
- any facility or their officers or employees;
- the owner of the property or vehicle where the act or omission may have occurred;
- any local organization that registered the volunteer;
- professional or trade association of covered volunteer emergency workers; and
- the state or any state or local governmental entity.

The immunity applies only when the covered volunteer emergency worker was engaged in an activity within his or her assigned duties and under the direction of a local emergency management organization or the Department, and only if the covered volunteer emergency worker's act or omission does not constitute gross negligence or willful or wanton misconduct.

#### Retired Volunteer Medical Worker License.

The Secretary of Health (Secretary) is authorized to issue a retired volunteer medical worker license to any person that:

- held an active health care provider license within 10 years prior to his or her initial application for the retired volunteer medical worker license;
- does not have any restrictions to practice due to violations of the Uniform Disciplinary Act; and
- registers with a local emergency services or management organization affiliated with the Emergency Management Division of the Department.

Retired volunteer medical workers must be supervised and may only perform the duties that were associated with their practice prior to retirement. An individual who holds a volunteer medical worker license and is registered as an emergency worker is considered a "covered volunteer." Covered volunteers, their supervisors, health care facilities, property and vehicle owners, local organizations that register covered volunteers, and state and local government entities are immune from liability for the acts or omissions of a covered volunteer while providing assistance or transportation during a disaster or participating in an approved training or exercise in preparation for an emergency or disaster. The immunity applies when the covered volunteer was acting without compensation, within the scope of his or her assigned duties, and under the direction of the local organization with which he or she had been registered. The immunity does not apply to acts of gross negligence or willful misconduct.

#### Good Samaritan Law.

The Good Samaritan Law limits liability for any person who renders emergency care at the scene of an emergency or who participates in transporting an injured person from the scene, without compensation or the expectation of compensation. The law excludes persons who render such care during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care. The Good Samaritan Law also includes immunity provisions for health care providers who volunteer health care services in certain community health care settings. The immunity provisions do not apply to acts or omissions that constitute gross negligence.

#### Unlicensed Practice.

Individuals practicing certain health professions are required to be licensed by the Department of Health (DOH) or various boards and commissions having jurisdiction over those professions. The unlicensed practice of a health profession or business must be investigated by the Secretary and constitutes a gross misdemeanor. Generally, however, the DOH and the disciplining authorities provide a process for health professionals licensed out-of-state to become licensed in Washington.

#### **Summary of Bill:**

The act is to be known as the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) and creates a new chapter in Title 70 RCW. Volunteer health professionals (VHPs) that are registered with a qualifying registration system and provide health or veterinary services in Washington for an entity that uses volunteer health practitioners to respond to a declared emergency are regulated by the UEVHPA.

During a declared emergency, the Department of Health (DOH) is permitted to limit or restrict the time and geographical areas in which VHPs may practice, the types of VHPs that

may practice, and any other matters necessary to effectively coordinate the provision of health and veterinary services. Orders issued to effectuate these restrictions take effect immediately and are not considered rules under the Administrative Procedure Act. A host entity that utilizes VHPs to provide health or veterinary services must consult and coordinate its activities with the DOH to the extent practicable to provide for the efficient and effective use of VHPs and to comply with other laws relevant to the management of emergency health and veterinary services.

To be a qualifying registration system, a system must allow for registration before or during a declared emergency, provide information about practitioners' licensure and good standing, and be able to confirm that information. Further, the system must be:

- the Emergency System for Advanced Registration of Volunteer Health Professionals;
- a registration system operated by a Medical Reserve Corps; or
- operated by a disaster relief organization, licensing board, comprehensive health facility, government entity, or be otherwise designated as a qualifying system by the DOH.

While a declared emergency is in effect, the DOH, or a person authorized to act on the department's behalf, or a host entity may confirm whether a VHP is registered with an approved system.

During an emergency declaration, a VHP registered with a qualifying system, licensed and in good standing, may practice in this state as if the practitioner were licensed in this state. A VHP that is licensed in more than one state and has any license suspended, revoked, subject to any privileging restrictions, or has been voluntarily terminated under threat of sanction may not provide services in the state pursuant to the UEVHPA. A health facility's credentialing and privileging standards are not impacted and a host entity is not required to utilize the services of VHPs.

A VHP must adhere to the scope of practice for a similarly licensed practitioner in Washington, but also may not provide services outside of the VHP's scope of practice. The DOH may modify or restrict the services a VHP may provide, which a host entity may also restrict.

The relevant licensing board or disciplinary authority may impose sanctions against practitioners licensed in Washington for conduct outside of the state when the practitioner was responding to an out-of-state emergency. The board or authority may also sanction out-of-state practitioners for conduct occurring in Washington when the practitioner was responding to a declared emergency in Washington. In those instances, the board or authority must report the sanctions to the appropriate authority in the state where the practitioner is licensed.

The UEVHPA does not limit the use of VHPs through the Emergency Management Assistance Compact and the Pacific Northwest Emergency Management Arrangement, and authorizes the incorporation of VHPs in the emergency forces. The DOH is authorized to adopt rules to implement the UEVHPA and must do so in consultation with the Military Department and other agencies to promote a reasonably compatible emergency response system.

A VHP that is injured or dies as a result of providing services pursuant to the UEVHPA is deemed an employee of the state for purposes of receiving workers compensation if the VHP is not eligible for other similar benefits. The DOH, in consultation with the Department of Labor and Industries, must adopt rules and enter into agreements with other states to facilitate benefits for VHPs who reside in other states.

The following individuals are not liable for an act or omission done while providing services within the provisions of the UEVHPA, except those constituting gross negligence, or willful or wanton misconduct:

- the VHP;
- the VHP's supervisor and employer;
- any facility or their officers or employees;
- the owner of the property or vehicle where the act or omission may have occurred;
- any local organization that registered the VHP;
- professional or trade association of covered volunteer emergency workers; and
- the state or any state or local governmental entity.

No person is liable for an act or omission relating to the use or reliance upon information included in a volunteer health practitioner registration system, except those constituting gross negligence, an intentional tort, or willful or wanton misconduct.

An "emergency" is defined as an event of condition that is an emergency, disaster, or public health emergency and an "emergency declaration" is defined as a proclamation of a state emergency by the Governor. A "health practitioner" under the UEVHPA is an individual licensed by Washington or another state to provide health or veterinary services.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Washington faces a lot of criticism for not being adequately prepared for earthquakes, tsunamis, and other disasters. This bill will allow health practitioners from other states to come in and practice in the state and will go a long way to help the state during an emergency. This a uniform bill and has been passed in other states, and is potentially the best bill this session. It is simple and straight forward and it does not cost anything, but could have a dramatic impact should we ever have a significant natural disaster.

(Opposed) None.

**Persons Testifying:** Senator Van De Wege, prime sponsor.

**Persons Signed In To Testify But Not Testifying:** None.