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**SENATE BILL 5990**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Van De Wege, Pedersen, and Kuderer; by request of Uniform Law Commission

AN ACT Relating to the uniform emergency volunteer health practitioners act; amending RCW 38.52.010 and 38.52.180; and adding a new chapter to Title 70 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  SHORT TITLE. This chapter may be known and cited as the uniform emergency volunteer health practitioners act.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:

(a) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the department; or

(b) Regularly plans and conducts its activities in coordination with an agency of the federal government or the department.

(3) "Emergency" means an event or condition that is an emergency, disaster, or public health emergency under chapter 38.52 RCW.

(4) "Emergency declaration" means a proclamation of a state of emergency issued by the governor under RCW 43.06.010.

(5) "Emergency management assistance compact" means the interstate compact approved by congress by P.L. 104-321, 110 Stat. 3877, RCW 38.10.010.

(6) "Entity" means a person other than an individual.

(7) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

(8) "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services.

(9) "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(ii) Counseling, assessment, procedures, or other services;

(b) Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) Funeral, cremation, cemetery, or other mortuary services.

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

(11) "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

(12) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

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

(15) "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(a) Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(b) Use of a procedure for reproductive management; and

(c) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

(16) "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.

NEW SECTION. **Sec.**  APPLICABILITY TO VOLUNTEER HEALTH PRACTITIONERS. This chapter applies to volunteer health practitioners registered with a registration system that complies with section 5 of this act and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

NEW SECTION. **Sec.**  REGULATION OF SERVICES DURING EMERGENCY. (1) While an emergency declaration is in effect, the department 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 pursuant to subsection (1) of this section may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the administrative procedure act, chapter 34.05 RCW.

(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 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.

NEW SECTION. **Sec.**  VOLUNTEER HEALTH PRACTITIONER REGISTRATION SYSTEMS. (1) To qualify as a volunteer health practitioner registration system, a system must:

(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:

(i) 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. Sec. 247d-7b, as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(ii) 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. Sec. 300hh, as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(iii) 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 healthcare services, including a tertiary care, teaching hospital, or acute care facility; or

(E) Governmental entity; or

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

(2) While an emergency declaration is in effect, the department, a person authorized to act on behalf of the department, 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) of this section. 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) of this section, 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.

NEW SECTION. **Sec.**  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 5 of this act 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) of this section 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.

NEW SECTION. **Sec.**  NO EFFECT ON CREDENTIALING AND PRIVILEGING. (1) As used 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.

NEW SECTION. **Sec.**  PROVISION OF VOLUNTEER HEALTH OR VETERINARY SERVICES—ADMINISTRATIVE SANCTIONS. (1) Subject to subsections (2) and (3) of this section, 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) of this section, 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 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 the administrative procedure act, chapter 34.05 RCW.

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

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

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

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

(a) May impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

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

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

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

NEW SECTION. **Sec.**  RELATION TO OTHER LAWS. (1) This chapter does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Except as otherwise provided in subsection (2) of this section, this chapter does not affect requirements for the use of health practitioners pursuant to the emergency management assistance compact or the pacific northwest emergency management arrangement approved by congress by P.L. 105-381, 112 Stat. 3402.

(2) The department, pursuant to the emergency management assistance compact or the pacific northwest emergency management arrangement approved by congress by P.L. 105-381, 112 Stat. 3402, may incorporate into the emergency forces of this state volunteer health 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.

NEW SECTION. **Sec.**  REGULATORY AUTHORITY. The department may promulgate rules to implement this chapter. In doing so, the department shall consult with and consider the recommendations of the entity established to coordinate the implementation of the emergency management assistance compact and shall also consult with and consider rules promulgated by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

NEW SECTION. **Sec.**  UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec.**  RCW 38.52.010 and 2017 c 312 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Communication plan," as used in RCW 38.52.070, means a section in a local comprehensive emergency management plan that addresses emergency notification of life safety information.

(2) "Continuity of operations planning" means the internal effort of an organization to assure that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

(3) "Department" means the state military department.

(4) "Director" means the adjutant general.

(5) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(8) "Emergency worker" means any person who is:

(a) Registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities ((~~or is~~));

(b) An employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities; or

(c) An emergency volunteer health practitioner under chapter 70.--- RCW (the new chapter created in section 14 of this act).

(9) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(10) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, firefighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(11) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

(12) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(13) "Life safety information" means information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. Such information may include, but is not limited to, information regarding evacuation, sheltering, sheltering-in-place, facility lockdown, and where to obtain food and water.

(14) "Local director" means the director of a local organization of emergency management or emergency services.

(15) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(16) "Political subdivision" means any county, city or town.

(17) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(18) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

(19) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

**Sec.**  RCW 38.52.180 and 2017 c 36 s 1 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of willful negligence by such owner or occupant or his or her servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done or attempted ((~~during or while traveling to or from an emergency or disaster, search and rescue, or training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue,~~)) under the color of this chapter in a bona fide attempt to comply therewith((~~, except as provided in subsections (3), (4), and (5) of this section regarding covered volunteer emergency workers,~~)) shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule, or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) ((~~No act or omission by a covered volunteer emergency worker while engaged in a covered activity shall impose any liability for civil damages resulting from such an act or omission upon:~~

~~(a) The covered volunteer emergency worker;~~

~~(b) The supervisor or supervisors of the covered volunteer emergency worker;~~

~~(c) Any facility or their officers or employees;~~

~~(d) The employer of the covered volunteer emergency worker;~~

~~(e) The owner of the property or vehicle where the act or omission may have occurred during the covered activity;~~

~~(f) Any local organization that registered the covered volunteer emergency worker;~~

~~(g) The state or any state or local governmental entity; and~~

~~(h) Any professional or trade association of covered volunteer emergency workers.~~

~~(4) The immunity in subsection (3) of this section applies only when the covered volunteer emergency worker was engaged in a covered activity:~~

~~(a) Within the scope of his or her assigned duties;~~

~~(b) Under the direction of a local emergency management organization or the department, or a local law enforcement agency for search and rescue; and~~

~~(c) The act or omission does not constitute gross negligence or willful or wanton misconduct.~~

~~(5) For purposes of this section:~~

~~(a) "Covered volunteer emergency worker" means an emergency worker as defined in RCW 38.52.010 who (i) is not receiving or expecting compensation as an emergency worker from the state or local government, or (ii) is not a state or local government employee unless on leave without pay status.~~

~~(b) "Covered activity" means:~~

~~(i) Providing assistance or transportation authorized by the department during an emergency or disaster or search and rescue as defined in RCW 38.52.010, whether such assistance or transportation is provided at the scene of the emergency or disaster or search and rescue, at an alternative care site, at a hospital, or while in route to or from such sites or between sites; or~~

~~(ii) Participating in training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue.~~

~~(6)~~)) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency described in this chapter.

((~~(7)~~)) (4) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

((~~(8) Any act or omission by a covered volunteer emergency worker while engaged in a covered activity using an off-road vehicle, nonhighway vehicle, or wheeled all-terrain vehicle does not impose any liability for civil damages resulting from such an act or omission upon the covered volunteer emergency worker or the worker's sponsoring organization.~~))

NEW SECTION. **Sec.**  Sections 1 through 11 of this act constitute a new chapter in Title 70 RCW.

**--- END ---**