

SENATE BILL REPORT

ESSB 5990

As Passed Senate, February 7, 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 & Long Term Care: 1/15/18, 1/23/18 [DPS].

Ways & Means: 1/30/18 [w/oRec].

Floor Activity:

Passed Senate: 2/07/18, 44-4.

Brief Summary of Engrossed First Substitute Bill

- Authorizes the Washington State Department of Health (DOH) to regulate the use of volunteer health and veterinary practitioners during an emergency.
- Authorizes registered volunteer health and veterinary practitioners licensed in other states to practice in Washington during an emergency.
- Establishes standards for volunteer health practitioner registration systems.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5990 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Rivers, Ranking Member; Bailey, Becker, Conway, Fain, Keiser, Mullet and Van De Wege.

Staff: Greg Attanasio (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That it be referred without recommendation.

Signed by Senators Frockt, Vice Chair; Braun, Ranking Member; Honeyford, Assistant Ranking Member; Bailey, Becker, Billig, Brown, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Schoesler, Van De Wege, Wagoner and Warnick.

Staff: Julie Murray (786-7711)

Background: Emergency Management Assistance Compact (EMAC). 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 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. Authorized state representatives work with the EMAC Advance Team to broadcast an EMAC request to other states. 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.

Article V of EMAC provides for interstate recognition of licenses held by professionals responding to an emergency in the state. Article V applies only to those professionals deployed through the compact.

Uniform Law Commission (ULC). In 2006, ULC proposed the Uniform Emergency Volunteer Health Practitioners Act to provide a process for out-of-state medical professionals not covered by EMAC to provide services during an emergency. Seventeen states have enacted a version of the legislation.

Summary of Engrossed First Substitute Bill: DOH may promulgate rules and regulate the use of volunteer health or veterinary practitioners during an emergency. In doing so, it must consult with the Military Department to ensure conformity with the state's program for emergency management. DOH may regulate the type of practitioner who may practice, the duration of the practice, the scope of practice, the geographical area, or any other matter necessary to coordinate the delivery of medical services.

If a volunteer practitioner is licensed and in good standing in another state, they can practice under that license while an emergency declaration is in effect. Regardless of whether the practitioner is licensed in Washington or another state, they must provide services through a host entity, adhere to their scope of practice, and be registered with a qualifying volunteer health practitioner registration system.

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

- established by a state and funded by the U.S. Department of Health and Human Services;

- a local unit of trained emergency responders and medical personnel formed pursuant to the federal Public Health Services Act; or
- operated by a disaster relief organization, licensing board, comprehensive health facility, government entity, or be otherwise designated as a qualifying system by DOH.

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 an 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. A volunteer health practitioner who dies or is injured while providing services under this act is considered an employee of the state and entitled to workers' compensation coverage if they are not otherwise eligible for benefits under the law of this or another state. DOH, in consultation with the Department of Labor and Industry, must adopt rules or take other necessary action to facilitate the receipt of benefits.

Volunteer health practitioners will not be liable for an act or omission done while providing services within the provisions of the act, except those constituting gross negligence, or willful or wanton misconduct. No person will be 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.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.*
CON: Liability protection for volunteer practitioners must be added to the bill. The bill should use the same language as Section 11 of the Uniform Emergency Volunteer Health Practitioners Act. The current liability language in the bill must be changed because it removes needed liability protections for search and rescue workers.

OTHER: Section 14 of the bill should be deleted entirely because it is not relevant in the context of the bill.

Persons Testifying (Health & Long Term Care): PRO: Senator Kevin Van De Wege, Prime Sponsor.

CON: Lisa Thatcher, Washington State Hospital Association; Sean Graham, Washington State Medical Association; Jerome Boss, King County Search and Rescue.

OTHER: Jason Marquiss, Deputy Director, Washington Military Department, Emergency Management Division.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony (Ways & Means): No public hearing was held.

Persons Testifying (Ways & Means): N/A.

Persons Signed In To Testify But Not Testifying (Ways & Means): N/A.