

MAINE STATE LEGISLATURE

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L.D. 958

Date: 3/21/2018

(Filing No. S-401)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 314, L.D. 958, Bill, "An Act To Enact the Uniform Emergency Volunteer Health Practitioners Act"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 24 MRSA §2904, sub-§1, ¶A, as enacted by PL 2003, c. 438, §2, is amended to read:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that health care practitioner's licensure:

- (1) To a nonprofit organization;
- (2) To an agency of the State or any political subdivision of the State;
- (3) To members or recipients of services of a nonprofit organization or state or local agency;
- (4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;
- (5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or
- (6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2; or

Sec. 2. 24 MRSA §2904, sub-§1, ¶B, as corrected by RR 2005, c. 2, §19, is amended to read:

B. An emergency medical services person who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides emergency medical services within the scope of that person's licensure:

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- 1 (1) To support the State's response to a public health threat as defined in Title 22,
- 2 section 801, subsection 10;
- 3 (2) To support the State's response to an extreme public health emergency as
- 4 defined in Title 22, section 801, subsection 4-A; or
- 5 (3) To support the State's response to a disaster as defined in Title 37-B, section
- 6 703, subsection 2; or

7 **Sec. 3. 24 MRSA §2904, sub-§1, ¶C** is enacted to read:

8 C. A volunteer health practitioner who provides health services or veterinary services

9 pursuant to the Uniform Emergency Volunteer Health Practitioners Act.

10 **Sec. 4. 24 MRSA §2904, sub-§3, ¶F** is enacted to read:

11 F. "Volunteer health practitioner" has the same meaning as in Title 37-B, section

12 949-A, subsection 16.

13 **Sec. 5. 37-B MRSA c. 16-B** is enacted to read:

14 **CHAPTER 16-B**

15 **UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT**

16 **§949. Short title**

17 This chapter may be known and cited as "the Uniform Emergency Volunteer Health

18 Practitioners Act."

19 **§949-A. Definitions**

20 As used in this chapter, unless the context otherwise indicates, the following terms

21 have the following meanings.

22 **1. Disaster relief organization.** "Disaster relief organization" means an entity that

23 provides emergency or disaster relief services that include health services or veterinary

24 services provided by volunteer health practitioners as long as the entity:

25 A. Is designated or recognized as a provider of those emergency or disaster relief

26 services pursuant to a disaster response and recovery plan adopted by an agency of

27 the Federal Government or the Maine Emergency Management Agency; or

28 B. Regularly plans and conducts its activities in coordination with an agency of the

29 Federal Government, the Maine Emergency Management Agency or the Department

30 of Health and Human Services.

31 **2. Emergency.** "Emergency" means an event or condition that is an actual or

32 imminent civil emergency or disaster or an actual or threatened epidemic or public health

33 threat that is the subject of an emergency proclamation pursuant to section 742 or an

34 emergency declaration pursuant to Title 22, section 802.

35 **3. Emergency declaration.** "Emergency declaration" means a declaration or

36 proclamation of emergency issued by a person authorized to do so under the laws of this

37 State.

1 **4. Emergency Management Assistance Compact.** "Emergency Management
2 Assistance Compact" means the interstate compact approved by the United States
3 Congress in Public Law 104-321 (1996) and adopted by this State in chapter 16.

4 **5. Entity.** "Entity" means a person other than an individual.

5 **6. Health facility.** "Health facility" means an entity licensed under the laws of this
6 State or another state to provide health services or veterinary services.

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

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

12 **A.** The following, concerning the physical or mental condition or functional status of
13 an individual or affecting the structure or function of the body:

14 **(1)** Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative
15 care; and

16 **(2)** Counseling, assessment, procedures or other services;

17 **B.** The sale or dispensing of a drug, a device, equipment or another item to an
18 individual in accordance with a prescription; and

19 **C.** Funeral, cremation, cemetery or other mortuary services.

20 **9. Host entity.** "Host entity" means an entity operating in this State that uses
21 volunteer health practitioners to respond to an emergency.

22 **10. International Emergency Management Assistance Compact.** "International
23 Emergency Management Assistance Compact" means the mutual assistance compact
24 described in chapter 16-A.

25 **11. License.** "License" means authorization by a state to provide health services or
26 veterinary services that are unlawful without the authorization. "License" includes
27 authorization under the laws of this State to an individual to provide health services or
28 veterinary services based upon a national certification issued by a public or private entity.

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

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

37 **14. State.** "State" means a state of the United States, the District of Columbia, the
38 Commonwealth of Puerto Rico, the United States Virgin Islands, any territory or insular
39 possession subject to the jurisdiction of the United States or a Canadian province that is a
40 party to the International Emergency Management Assistance Compact.

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

5 A. Diagnosis, treatment or prevention of an animal disease, injury or other physical
6 or mental condition by the prescription, administration or dispensing of vaccine,
7 medicine, surgery or therapy;

8 B. Use of a procedure for reproductive management; and

9 C. Monitoring and treatment of animal populations for diseases that have spread or
10 demonstrate the potential to spread to humans.

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

19 §949-B. Applicability to volunteer health practitioners

20 This chapter applies only to volunteer health practitioners who are registered with a
21 registration system that complies with section 949-D and who provide health services or
22 veterinary services in this State for a host entity while an emergency declaration is in
23 effect.

24 §949-C. Regulation of services during emergency

25 1. Order regulating practice. The Department of Health and Human Services, in
26 coordination with the Maine Emergency Management Agency, may issue an order that
27 limits, restricts or otherwise regulates the following while an emergency declaration is in
28 effect:

29 A. The duration of practice by volunteer health practitioners;

30 B. The geographical areas in which volunteer health practitioners may practice;

31 C. The types of volunteer health practitioners who may practice; and

32 D. Any other matters necessary to coordinate effectively the provision of health
33 services or veterinary services during the emergency.

34 2. Inapplicability of Maine Administrative Procedure Act. Notwithstanding the
35 Maine Administrative Procedure Act, an order issued pursuant to subsection 1 may take
36 effect immediately, without notice or comment, and is legally enforceable.

37 3. Duties of host entity. A host entity that uses volunteer health practitioners to
38 provide health services or veterinary services in this State shall:

1 A. Consult and coordinate its activities with the Department of Health and Human
2 Services or the Maine Emergency Management Agency to the extent practicable to
3 provide for the efficient and effective use of volunteer health practitioners; and

4 B. Comply with other laws relating to the management of emergency health services
5 or veterinary services.

6 **§949-D. Volunteer health practitioner registration systems**

7 **1. Registration system requirements.** To qualify as a volunteer health practitioner
8 registration system, a system must:

9 A. Accept applications for the registration of volunteer health practitioners before or
10 during an emergency;

11 B. Include information about the licensure and good standing of health practitioners
12 that is accessible by authorized persons;

13 C. Be capable of confirming the accuracy of information concerning whether a
14 health practitioner is licensed and in good standing before health services or
15 veterinary services are provided under this chapter; and

16 D. Meet one of the following conditions:

17 (1) Be an emergency system for advance registration of volunteer health care
18 professionals established by a state and funded through the federal Department of
19 Health and Human Services under Section 319I of the federal Public Health
20 Service Act, 42 United States Code, Section 247d-7b (2017);

21 (2) Be a local unit consisting of trained and equipped emergency response,
22 public health and medical personnel formed pursuant to Section 2801 of the
23 federal Public Health Service Act, 42 United States Code, Section 300hh (2017);

24 (3) Be operated by a:

25 (a) Disaster relief organization;

26 (b) Licensing board;

27 (c) National or regional association of licensing boards or health
28 practitioners;

29 (d) Health facility that provides comprehensive inpatient and outpatient
30 health care services, including a tertiary care hospital; or

31 (e) Governmental entity; or

32 (4) Be designated by the Department of Health and Human Services, in
33 coordination with the Maine Emergency Management Agency, as a registration
34 system for the purposes of this chapter.

35 **2. Confirmation of registration.** While an emergency declaration is in effect, the
36 Department of Health and Human Services or the Maine Emergency Management
37 Agency, a person authorized to act on behalf of the Department of Health and Human
38 Services or the Maine Emergency Management Agency or a host entity may confirm

1 whether volunteer health practitioners utilized in this State are registered with a
2 registration system that complies with subsection 1. Confirmation is limited to obtaining
3 identities of the practitioners from the system and determining whether the system
4 indicates that the practitioners are licensed and in good standing.

5 **3. Notification by registration system.** Upon request of a person in this State
6 authorized under subsection 2, or a similarly authorized person in another state, a
7 registration system located in this State shall notify the person of the identities of
8 volunteer health practitioners and whether the practitioners are licensed and in good
9 standing.

10 **4. Host entity discretion in selecting volunteers.** A host entity is not required to
11 use the services of a volunteer health practitioner even if the practitioner is registered
12 with a registration system that indicates that the practitioner is licensed and in good
13 standing.

14 **§949-E. Recognition of volunteer health practitioners licensed in other states**

15 **1. Authority to practice during emergency.** While an emergency declaration is in
16 effect, a volunteer health practitioner registered with a registration system that complies
17 with section 949-D and licensed and in good standing in the state upon which the
18 practitioner's registration is based may practice in this State to the extent authorized by
19 this chapter as if the practitioner were licensed in this State.

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

25 **§949-F. No effect on credentialing and privileging**

26 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
27 following terms have the following meanings.

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

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

34 **2. Health facility autonomy over credentialing and privileging.** This chapter does
35 not affect credentialing or privileging standards of a health facility and does not preclude
36 a health facility from waiving or modifying those standards while an emergency
37 declaration is in effect.

38 **§949-G. Provision of volunteer health services or veterinary services; licensee**
39 **discipline**

40 **1. Applicability of Maine scope of practice laws.** Subject to subsections 2 and 3, a
41 volunteer health practitioner shall adhere to the scope of practice for a similarly licensed

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1 practitioner established by the licensing provisions, practice acts or other laws of this
2 State.

3 **2. Applicability of scope of practice laws of state where practitioner is licensed.**

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

8 **3. Order modifying or limiting services.** The Governor or the Governor's designee
9 may issue an order that modifies or restricts the health services or veterinary services that
10 volunteer health practitioners may provide pursuant to this chapter. Notwithstanding the
11 Maine Administrative Procedure Act, an order issued pursuant to this subsection may
12 take effect immediately, without notice or comment, and is legally enforceable.

13 **4. Additional restrictions imposed by host entity.** A host entity may restrict the
14 health services or veterinary services that a volunteer health practitioner may provide
15 pursuant to this chapter.

16 **5. Unauthorized practice.** A volunteer health practitioner does not engage in
17 unauthorized practice unless the practitioner has reason to know of any limitation,
18 modification or restriction under this section or that a similarly licensed practitioner in
19 this State would not be permitted to provide the services. A volunteer health practitioner
20 has reason to know of a limitation, modification or restriction or that a similarly licensed
21 practitioner in this State would not be permitted to provide a service if:

22 A. The practitioner knows the limitation, modification or restriction exists or that a
23 similarly licensed practitioner in this State would not be permitted to provide the
24 service; or

25 B. From all the facts and circumstances known to the practitioner at the relevant
26 time, a reasonable person would conclude that the limitation, modification or
27 restriction exists or that a similarly licensed practitioner in this State would not be
28 permitted to provide the service.

29 **6. Volunteer health practitioner discipline.** In addition to the authority granted by
30 law of this State other than this chapter to regulate the conduct of health practitioners, a
31 licensing board or other disciplinary authority in this State:

32 A. May discipline a health practitioner licensed in this State for conduct outside of
33 this State in response to an out-of-state emergency;

34 B. May discipline a health practitioner not licensed in this State for conduct in this
35 State in response to an in-state emergency; and

36 C. Shall report any discipline imposed upon a health practitioner licensed in another
37 state to the appropriate licensing board or other disciplinary authority in any other
38 state in which the practitioner is known to be licensed.

39 **7. Factors to be considered by disciplinary authority.** In determining whether to
40 impose discipline pursuant to subsection 6, a licensing board or other disciplinary
41 authority shall consider the circumstances in which the conduct took place, including any

1 exigent circumstances, and the health practitioner's scope of practice, education, training,
2 experience and specialized skill.

3 **§949-H. Relation to other laws**

4 **1. Other laws unaffected.** This chapter does not limit the rights, privileges or
5 immunities provided to volunteer health practitioners by laws other than this chapter.
6 Except as otherwise provided in subsection 2, this chapter does not affect requirements
7 for the use of health practitioners pursuant to the Emergency Management Assistance
8 Compact or the International Emergency Management Assistance Compact.

9 **2. Exceptions; Emergency Management Assistance Compact and International**
10 **Emergency Management Assistance Compact.** The Maine Emergency Management
11 Agency, pursuant to section 784-A, the Emergency Management Assistance Compact and
12 the International Emergency Management Assistance Compact, may incorporate into the
13 emergency forces of this State volunteer health practitioners who are not officers or
14 employees of this State, a political subdivision of this State or a municipality or other
15 local government within this State.

16 **§949-I. Regulatory authority**

17 The Department of Health and Human Services may adopt rules to implement this
18 chapter. In doing so, the Department of Health and Human Services shall consult with
19 and consider the recommendations of the Maine Emergency Management Agency and
20 shall also consult with and consider rules adopted by similarly empowered agencies in
21 other states to promote uniformity of application of this chapter and make the emergency
22 response systems in the various states reasonably compatible. Rules adopted pursuant to
23 this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

24 **§949-J. Limitations on civil liability for volunteer health practitioners**

25 A volunteer health practitioner who provides health services or veterinary services in
26 accordance with this chapter is immune from liability for injury or death arising from the
27 provision of those services to the extent provided in Title 24, section 2904.

28 **§949-K. Uniformity of application and construction**

29 In applying and construing this uniform act, consideration must be given to the need
30 to promote uniformity of the law with respect to its subject matter among states that enact
31 it.'

32 **SUMMARY**

33 This amendment strikes and replaces the bill, which is a concept draft, and adopts
34 selected provisions of the Uniform Emergency Volunteer Health Practitioners Act. This
35 amendment does the following.

36 1. It defines "volunteer health practitioner" as an individual who provides health
37 services or veterinary services, whether or not the individual receives compensation, as
38 long as the individual is not providing services in this State as part of a preexisting
39 employment relationship. "Volunteer health practitioner" also includes individuals who

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COMMITTEE AMENDMENT "A" to S.P. 314, L.D. 958

1 are not state residents who provide health services or veterinary services in this State
2 while employed by a disaster relief organization.

3 2. It provides for advanced registration of volunteer health practitioners from this
4 State or other states who agree to provide health services or veterinary services during a
5 civil emergency or health emergency in this State declared by the Governor or the
6 Department of Health and Human Services. Registration systems must determine
7 whether registrants are licensed to provide health services or veterinary services and are
8 in good standing with the relevant licensing entities in this State and other states.

9 3. It authorizes volunteer health practitioners licensed in other states to provide health
10 services and veterinary services in this State during a declared civil emergency or public
11 health emergency. While an emergency declaration is in effect, the Department of Health
12 and Human Services, in coordination with the Department of Defense, Veterans and
13 Emergency Management, Maine Emergency Management Agency, may limit the
14 duration and geographical areas in which a volunteer health practitioner may practice as
15 well as types of volunteer health practitioners who are authorized to provide health
16 services or veterinary services.

17 4. It requires a volunteer health practitioner to comply with both the scope of practice
18 laws in this State and the scope of practice laws in the state where the individual is
19 licensed while providing health services or veterinary services in this State during a
20 declared emergency. The Governor or the Governor's designee may by order modify or
21 restrict the health services or veterinary services that a volunteer health practitioner may
22 provide during a declared emergency.

23 5. It subjects a volunteer health practitioner to discipline by the appropriate state
24 licensing board for health services or veterinary services provided in this State during a
25 declared emergency. An individual who is licensed in Maine and who provides health
26 services or veterinary services during a declared emergency in another state as a
27 volunteer health practitioner is also subject to discipline by the appropriate state licensing
28 board.

29 6. It protects a volunteer health practitioner from civil liability for injury or death
30 arising out of the provision of health services or veterinary services in accordance with
31 the requirements of the uniform act to the same extent that a health care practitioner in
32 this State is protected from civil liability for volunteer activities under the Maine Health
33 Security Act.

34 7. It authorizes the Department of Health and Human Services to adopt rules to
35 implement the uniform act in consultation with the Maine Emergency Management
36 Agency and rule-making agencies in other states that have adopted similar legislation.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 958

LR 1409(02)

An Act To Enact the Uniform Emergency Volunteer Health Practitioners Act

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-401)
Committee: Labor, Commerce, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to state agencies associated with this legislation can be absorbed within existing budgeted resources.