

Regular Session, 2009

SENATE BILL NO. 107

BY SENATOR CHEEK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE. Provides for the Uniform Emergency Volunteer Health Practitioners Act.  
(8/15/09)

1 AN ACT

2 To enact Chapter 10 of Title 29 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 29:781 through 792, and to repeal R.S. 29:735.2(A), relative to emergency

4 volunteer health practitioners; to provide for definitions; to provide for the regulation

5 of health services during a declared emergency; to provide for volunteer health

6 practitioner registration systems; to provide for administrative sanctions; to provide

7 for a limitation of liability for volunteer health practitioners; and to provide for

8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 10 of Title 29 of the Louisiana Revised Statutes of 1950,  
11 comprised of R.S. 29:781 through 792, is hereby enacted to read as follows:

12 **CHAPTER 10. UNIFORM EMERGENCY VOLUNTEER**

13 **HEALTH PRACTITIONERS ACT**

14 **§781. Short title**

15 **This Chapter may be cited as the "Uniform Emergency Volunteer**  
16 **Health Practitioners Act."**

17 **§782. Definitions**

1           As used in this Chapter the following words, terms, and phrases shall  
2           have the meaning ascribed to them in this Section, unless the context clearly  
3           indicates a different meaning:

4           (1) "Affiliate" means a person that directly or indirectly through one or  
5           more intermediaries, controls, or is controlled by, or is under common control  
6           with, another person.

7           (2) "Declared emergency" means an event or condition that constitutes  
8           an emergency as defined in R.S. 29:723 or 727(D), or a public health emergency  
9           as defined in R.S. 29:762, and which has been the subject of an emergency  
10          declaration. The services authorized by this Chapter may be continued for up  
11          to thirty days following termination of a public health emergency if the  
12          Department of Health and Hospitals deems that the need for such services  
13          continues to exist.

14          (3) "Disaster preparedness or relief organization" means an entity that  
15          provides emergency preparedness services or disaster relief services that  
16          include health services provided by volunteer health practitioners, and that  
17          meets either of the following:

18                 (a) Is designated or recognized as a provider of those services pursuant  
19                 to a disaster response and recovery plan adopted by an agency of the federal  
20                 government or by the Governor's Office of Homeland Security and Emergency  
21                 Preparedness or the Department of Health and Hospitals.

22                 (b) Regularly plans and conducts its activities in coordination with an  
23                 agency of the federal government or with the Governor's Office of Homeland  
24                 Security and Emergency Preparedness or the Department of Health and  
25                 Hospitals.

26          (4) "Emergency declaration" means a declaration of emergency issued  
27          by the governor under the authority of R.S. 29:724 or R.S. 29:766 or by any  
28          other official under the authority of R.S. 29:727(D).

29          (5) "Emergency Management Assistance Compact" means the interstate

1 compact approved by the Unites States Congress by Public Law No. 104-321,  
2 110 Stat. 3877.

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

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

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

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

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

15 (i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or  
16 palliative care.

17 (ii) Counseling, assessment, procedures, or other services.

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

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

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

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

27 (12) "License in good standing" or "licensed and in good standing"  
28 means a current, unrestricted license or other authority issued by the  
29 professional licensing authority of another state to provide the health services

1 sought or to be rendered in this state during a declared emergency.

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

6 (14) "Secure registration card" means a secure form of identification  
7 which meets the following criteria:

8 (a) Is built on nationally recognized standards-based security features  
9 and enrollment vetting and issuance processes.

10 (b) Contains the name of the health practitioner and his license status  
11 and may contain other verified information.

12 (c) Has been issued or sponsored by a licensing authority of any state or  
13 by a disaster preparedness or relief organization in conjunction with a  
14 registration system that complies with R.S. 29:785.

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

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

22 (17) "State licensing authority" means a professional licensing board,  
23 agency, or commission with authority to license health practitioners in this state  
24 to provide the health services proposed to be provided by a volunteer health  
25 practitioner in response to a declared emergency, and which shall have  
26 administrative disciplinary jurisdictional authority over volunteer health  
27 practitioners with respect to their offering or provision of such health services  
28 in the state.

29 (18) "Volunteer health practitioner" means a health practitioner who

1 provides health services in this state for a host entity, whether or not the  
2 practitioner receives compensation for those services. The term does not  
3 include a practitioner who receives compensation pursuant to a preexisting  
4 employment relationship with a host entity or affiliate which requires the  
5 practitioner to provide health services in this state, unless the practitioner is not  
6 a resident of this state and is employed by a disaster preparedness or relief  
7 organization providing services in this state while an emergency declaration is  
8 in effect. The term does not include a practitioner who only provides veterinary  
9 services.

10 §783. Applicability to volunteer health practitioners

11 This Chapter applies to volunteer health practitioners registered with a  
12 registration system that complies with R.S. 29:785 and who provide health  
13 services in this state for a host entity while an emergency declaration is in effect.

14 §784. Regulation of services during emergency

15 A. While an emergency declaration is in effect, the Governor's Office of  
16 Homeland Security and Emergency Preparedness or the Department of Health  
17 and Hospitals may limit, restrict, or otherwise regulate:

18 (1) The duration of practice by volunteer health practitioners.

19 (2) The geographical areas in which volunteer health practitioners may  
20 practice.

21 (3) The types of volunteer health practitioners who may practice.

22 (4) Any other matters necessary to coordinate effectively the provision  
23 of health services during the emergency.

24 B. An order issued pursuant to Subsection A of this Section may take  
25 effect immediately, without prior notice or comment, and is not a rule within  
26 the meaning of R.S. 49:950 et seq.

27 C. A host entity that uses volunteer health practitioners to provide health  
28 services in this state shall:

29 (1) Consult and coordinate its activities with the Governor's Office of

1 **Homeland Security and Emergency Preparedness or the Department of Health**  
2 **and Hospitals, to the extent practical, to provide for the efficient and effective**  
3 **use of volunteer health practitioners.**

4 **(2) Verify the identity of the volunteer health practitioner.**

5 **(3) Confirm that the volunteer health practitioner is registered with a**  
6 **registration system that complies with R.S. 29:785.**

7 **(4) Confirm that the registration system has verified the accuracy of**  
8 **information concerning whether a health practitioner meets the requirements**  
9 **of R.S. 29:786.**

10 **(5) Confirm that the volunteer health practitioner has not had a license**  
11 **revoked, suspended or placed under the terms, conditions or restrictions in any**  
12 **state according to the National Practitioners Data Bank which shall be queried**  
13 **before the volunteer health practitioner is permitted to begin work or as soon**  
14 **thereafter as is possible under the circumstances.**

15 **(6) Notify the appropriate state licensing authority of any adverse action**  
16 **against the volunteer's privileges.**

17 **(7) Comply with any laws relating to the management of emergency**  
18 **health services.**

19 **D. A host entity is not required to use the services of a volunteer health**  
20 **practitioner even if the practitioner is registered with a registration system that**  
21 **indicates that the practitioner holds a license in good standing.**

22 **E. A secure registration card shall satisfy the requirements of**  
23 **Paragraphs C(2), (3), and (4) of this Section and may be used for verification of**  
24 **credentials by a host entity while an emergency declaration is in effect.**

25 **§785. Volunteer health practitioner registration systems**

26 **A. To qualify as a volunteer health practitioner registration system, a**  
27 **system shall:**

28 **(1) Accept applications for the registration of volunteer health**  
29 **practitioners before or during an emergency.**

1                   **(2) Include information about the license in good standing of health**  
2                   **practitioners which is accessible by authorized persons.**

3                   **(3) Be capable of verifying the accuracy of information concerning**  
4                   **whether a health practitioner meets the requirements of R.S. 29:786.**

5                   **(4) Meet one of the following conditions:**

6                   **(a) Be an emergency system for advance registration of volunteer**  
7                   **healthcare practitioners established by a state and funded through the**  
8                   **Department of Health and Human Services under Section 3191 of the Public**  
9                   **Health Services Act, 42 U.S.C. 247d-7b.**

10                  **(b) Be a local unit consisting of trained and equipped emergency**  
11                  **response, public health, and medical personnel formed pursuant to Section 2801**  
12                  **of the Public Health Services Act, 42 U.S.C. 300hh.**

13                  **(c) Be operated by or under the direction of one of the following:**

14                  **(i) A disaster preparedness or relief organization.**

15                  **(ii) A state licensing authority.**

16                  **(iii) A national or regional association of licensing boards or health**  
17                  **practitioners.**

18                  **(iv) A health facility that provides comprehensive inpatient and**  
19                  **outpatient health-care services, including, but not limited to, a tertiary care and**  
20                  **teaching hospital.**

21                  **(v) A governmental entity.**

22                  **(d) Be designated by the Governor's Office of Homeland Security and**  
23                  **Emergency Preparedness or the Department of Health and Hospitals as a**  
24                  **registration system for purposes of this Chapter.**

25                  **B. Upon request of the Governor's Office of Homeland Security and**  
26                  **Emergency Preparedness, the Department of Health and Hospitals, a state**  
27                  **licensing authority, or a host entity in this state or a similarly authorized entity**  
28                  **in another state, a registration system located in this state shall notify the entity**  
29                  **of the identities of the volunteer health practitioners registered with it and**

1 whether the practitioners are licensed and in good standing.

2 §786. Recognition of volunteer health practitioners licensed in other states

3 A. While an emergency declaration is in effect, a volunteer health  
4 practitioner, registered with a registration system that complies with R.S.  
5 29:785 and licensed and in good standing in the state upon which the  
6 practitioner's registration is based, may practice in this state to the extent  
7 authorized by this Chapter as if the practitioner were licensed in this state.

8 B. A volunteer health practitioner qualified under Subsection A of this  
9 Section is not entitled to the protections of this Chapter and shall not be  
10 authorized to practice in this state if any license of the practitioner is suspended,  
11 revoked, or subject to an agency order limiting or restricting practice privileges,  
12 or has been voluntarily terminated under threat of sanction.

13 C. Each health practitioner who provides health services in this state  
14 pursuant to authority of the Emergency Management Assistance Compact shall  
15 register with a registration system that complies with R.S. 29:785 as a volunteer  
16 health practitioner authorized to provide health services in this state pursuant  
17 to the Emergency Management Assistance Compact.

18 §787. No effect on credentialing and privileging

19 A. In this Section the following terms shall have the following meanings:

20 (1) "Credentialing" means obtaining, verifying, and assessing the  
21 qualifications of a health practitioner to provide treatment, care, or services in  
22 or for a health facility.

23 (2) "Privileging" means the authorizing by an appropriate authority of  
24 a health practitioner to provide specific treatment, care, or services at a health  
25 facility subject to limits based on factors that include license, education,  
26 training, experience, competence, health status, and specialized skill.

27 B. This Chapter does not affect credentialing or privileging standards of  
28 a health facility and does not preclude a health facility from waiving or  
29 modifying those standards while an emergency declaration is in effect.

1        **§788. Provision of volunteer health services; administrative sanctions**

2            **A. Subject to Subsections B and C of this Section, a volunteer health**  
3        **practitioner shall adhere to the scope of practice for a similarly licensed**  
4        **practitioner established by the licensing provisions, practice acts, or other laws**  
5        **of this state.**

6            **B. Except as otherwise provided in Subsection C of this Section, this**  
7        **Chapter does not authorize a volunteer health practitioner to provide services**  
8        **that are outside the practitioner's scope of practice, even if a similarly licensed**  
9        **practitioner in this state would be permitted to provide the services.**

10          **C. The Governor's Office of Homeland Security and Emergency**  
11        **Preparedness, the Department of Health and Hospitals, or a state licensing**  
12        **authority may modify or restrict the health services that volunteer health**  
13        **practitioners may provide pursuant to this Chapter. An order under this**  
14        **Subsection may take effect immediately, without prior notice or comment, and**  
15        **is not a rule within the meaning of R.S. 49:950 et seq.**

16          **D. A host entity may restrict the health services that a volunteer health**  
17        **practitioner may provide pursuant to this Chapter.**

18          **E. A volunteer health practitioner shall not be deemed to engage in**  
19        **unauthorized practice unless the practitioner has reason to know of any**  
20        **limitation, modification, or restriction under this Section or that a similarly**  
21        **licensed practitioner in this state would not be permitted to provide the services.**

22        **A volunteer health practitioner shall be deemed to know of a limitation,**  
23        **modification, or restriction or that a similarly licensed practitioner in this state**  
24        **would not be permitted to provide a service if either of the following conditions**  
25        **is met:**

26            **(1) The practitioner knows the limitation, modification, or restriction**  
27        **exists or that a similarly licensed practitioner in this state would not be**  
28        **permitted to provide the service.**

29            **(2) From all the facts and circumstances known to the practitioner at the**

1 relevant time, a reasonable person would conclude that the limitation,  
2 modification, or restriction exists or that a similarly licensed practitioner in this  
3 state would not be permitted to provide the service.

4 F. In addition to the authority granted by the laws of this state other than  
5 this Chapter to regulate the conduct of health practitioners, a state licensing  
6 authority for due cause under its applicable laws and rules:

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

10 (2) May impose administrative sanctions upon a practitioner not licensed  
11 in this state for conduct in this state in response to an in-state emergency.

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

16 G. In determining whether to impose administrative sanctions under  
17 Subsection F of this Section, a state licensing authority shall consider the  
18 circumstances in which the conduct took place, including any exigent  
19 circumstances, and the practitioner's scope of practice, education, training,  
20 experience, and specialized skill.

21 H. Administrative sanctions may be determined and ordered by the  
22 president of a state licensing authority or by his designee.

23 I. Administrative sanctions may include, but are not limited to, the  
24 restriction, suspension, or revocation of authority to provide health services in  
25 this state.

26 J. Any administrative sanction imposed on the authority of a health  
27 practitioner to practice during a declared emergency under the provisions of  
28 this Chapter shall be carried out as provided in this Subsection.

29 (1) Registration to provide health services in this state during a declared

1 emergency shall constitute and operate as an authorization and consent by a  
2 volunteer health practitioner to the following:

3 (i) Submission to the jurisdiction of the state licensing authority in all  
4 matters set forth in its practice act, rules and all applicable laws of this state.

5 (ii) To produce documents, records, and materials and appear before the  
6 state licensing authority or its designee upon request.

7 (iii) Immediately restrict or cease, desist, and withdraw from providing  
8 health services in this state upon notification by the state licensing authority of  
9 a restriction, suspension, or revocation of authority to provide such services.

10 (iv) Designate and appoint the voluntary health practitioner registration  
11 system providing notice of registration to the state licensing authority , or a host  
12 entity, hospital or affiliate for or at which he or she may be providing services,  
13 to receive any notice of administrative sanction provided by a state licensing  
14 authority under the provisions of this Chapter or otherwise.

15 (2) Any notice under this Chapter, to be effective, may be provided  
16 orally, in writing, electronically, or by any other means practical under the  
17 circumstances, to either the health practitioner, volunteer health practitioner  
18 registration system providing notification of registration to the state licensing  
19 authority, a host entity, or a hospital or affiliate for or at which the health  
20 practitioner may be providing services.

21 (3) All rights to a hearing on administrative sanctions imposed by a state  
22 licensing authority shall be held in abeyance until no less than thirty days after  
23 the termination of the declared emergency.

24 (4) A health practitioner may request an explanation for administrative  
25 sanctions on his or her authority to practice or a hearing by the state licensing  
26 authority or both, following termination of the emergency declaration, or as  
27 otherwise may be provided by applicable emergency orders.

28 (5) In the event a hearing is not requested within sixty days following the  
29 date of termination of the emergency declaration, or as otherwise may be

1 provided by applicable emergency orders, administrative sanctions imposed by  
2 the state licensing authority shall be deemed to constitute a final order or  
3 decision of such licensing authority.

4 §789. Relation to other laws

5 A. The provisions of this Chapter do not limit rights, privileges, or  
6 immunities provided to volunteer health practitioners by laws other than this  
7 Chapter. Except as otherwise provided in Subsection B of this Section, the  
8 provisions of this Chapter do not affect requirements for the use of health  
9 practitioners pursuant to the Emergency Management Assistance Compact.

10 B. The governor or the Governor's Office of Homeland Security and  
11 Emergency Preparedness, pursuant to the Emergency Management Assistance  
12 Compact, may incorporate into the emergency forces of this state volunteer  
13 health practitioners who are not officers or employees of this state, a political  
14 subdivision of this state, or a municipality or other local government within this  
15 state.

16 §790. Regulatory authority

17 The Governor's Office of Homeland Security and Emergency  
18 Preparedness or the Department of Health and Hospitals, and state licensing  
19 authorities may promulgate rules in accordance with the Administrative  
20 Procedure Act to implement this Chapter. In doing so, the Governor's Office  
21 of Homeland Security and Emergency Preparedness or the Department of  
22 Health and Hospitals and state licensing authorities shall also consult with and  
23 consider rules promulgated by similarly empowered agencies in other states to  
24 promote uniformity of application of this Chapter and make the emergency  
25 response systems in the various states reasonably compatible.

26 §791. Limitations on civil liability for volunteer health practitioners; vicarious  
27 liability

28 A. Subject to Subsection C of this Section, a volunteer health  
29 practitioner who provides health services pursuant to this Chapter shall not be

1 liable for damages for an act or omission of the practitioner in providing those  
2 services.

3 B. No person shall be vicariously liable for damages for an act or  
4 omission of a volunteer health practitioner if the practitioner is not liable for the  
5 damages under Subsection A of this Section.

6 C. This Section shall not limit the liability of a volunteer health  
7 practitioner for any of the following:

8 (1) Willful misconduct or wanton, grossly negligent, reckless, or  
9 criminal conduct.

10 (2) An intentional tort.

11 (3) A breach of contract.

12 (4) A claim asserted by a host entity or by an entity located in this or  
13 another state which employs or uses the services of the practitioner.

14 (5) An act or omission relating to the operation of a motor vehicle,  
15 vessel, aircraft, or other vehicle.

16 D. No person that, pursuant to this Chapter, operates, uses, or relies  
17 upon information provided by a volunteer health practitioner registration  
18 system shall be liable for damages for an act or omission relating to that  
19 operation, use, or reliance unless the act or omission is an intentional tort or is  
20 willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

21 E. In addition to the protections provided in Subsection A of this Section,  
22 a volunteer health practitioner who provides health services pursuant to this  
23 Chapter is entitled to all the rights, privileges, or immunities provided by other  
24 laws of this state.

25 §792. Uniformity of interpretation

26 This Chapter shall be so construed as to effectuate its general purpose  
27 to make uniform the law of those states which enact it.

28 Section 2. R.S. 29:735.2(A) is hereby repealed.

29 Section 3. This Act shall become effective on August 15, 2009; if vetoed by the

1 governor and subsequently approved by the legislature, this Act shall become effective on  
 2 August 15, 2009, or on the day following such approval by the legislature, whichever is  
 3 later.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Greg Waddell.

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#### DIGEST

Cheek (SB 107)

Proposed law provides for the "Uniform Emergency Volunteer Health Practitioners Act."

Proposed law defines "affiliate," "declared emergency," "disaster preparedness or relief organization," "emergency declaration," "emergency management assistance compact," "entity," "health facility," "health practitioner," "health services," "host entity," "license," "license in good standing," "licensed in good standing," "person," "secure registration card," "scope of practice," "state," "state licensing authority," and "volunteer health practitioner."

Proposed law applies to volunteer health practitioners registered with a registration system and who provide health services in this state for a host entity while an emergency declaration is in effect.

Proposed law provides that while an emergency declaration is in effect, GOSEP or DHH may limit, restrict, or otherwise regulate:

- (1) The duration of practice by volunteer health practitioners.
- (2) The geographical areas in which volunteer health practitioners may practice.
- (3) The types of volunteer health practitioners who may practice.
- (4) Any other matters necessary to coordinate effectively the provision of health services during the emergency.

Proposed law provides that an order issued pursuant to proposed law may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the APA.

Proposed law provides that a host entity that uses volunteer health practitioners to provide health services in this state shall:

- (1) Consult and coordinate its activities with GOSEP or DHH, to the extent practical, to provide for the efficient and effective use of volunteer health practitioners.
- (2) Verify the identity of the volunteer health practitioner.
- (3) Confirm that the volunteer health practitioner is registered with a registration system that complies with proposed law.
- (4) Confirm that the registration system has verified the accuracy of information concerning whether a health practitioner meets the requirements of proposed law.
- (5) Confirm that the volunteer health practitioner has not had a license revoked, suspended or placed under the terms, conditions or restrictions in any state according to the National Practitioners Data Bank which shall be queried before the volunteer

health practitioner is permitted to begin work or as soon thereafter as is possible under the circumstances.

- (6) Notify the state licensing authority of any adverse action against the volunteer's privileges.
- (7) Comply with any laws relating to the management of emergency health services.

Proposed law provides that 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 holds a license in good standing.

Proposed law provides that to qualify as a volunteer health practitioner registration system, a system shall:

- (1) Accept applications for the registration of volunteer health practitioners before or during an emergency.
- (2) Include information about the licensure and good standing of health practitioners which is accessible by authorized persons.
- (3) Be capable of verifying the accuracy of information concerning whether a health practitioner meets the requirements of proposed law.
- (4) Meet one of the following conditions:
  - (a) Be an emergency system for advance registration of volunteer healthcare practitioners established by a state and funded through the Department of Health and Human Services under Section 3191 of the Public Health Services Act, 42 U.S.C. 247d-7b.
  - (b) 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. 300hh.
  - (c) Be operated by or under the direction of a disaster preparedness of relief organization, a state licensing authority, a national or regional association of licensing boards or health practitioners, a health facility that provides comprehensive inpatient and outpatient health-care services, or a governmental entity.
  - (d) Be designated by GOSEP or DHH as a registration system.

Proposed law provides that upon request of GOSEP, DHH, a state licensing authority, or a host entity in this state or a similarly authorized entity in another state, a registration system located in this state shall notify the entity of the identities of the volunteer health practitioners registered with it and whether the practitioners are licensed and in good standing.

Proposed law provides that while an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system 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 proposed law as if the practitioner were licensed in this state.

Proposed law provides that a volunteer health practitioner qualified under proposed law is not entitled to the protections of proposed law and shall not be authorized to practice in this state if 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.

Proposed law provides that each health practitioner who provides health services in this state pursuant to authority of the Emergency Management Assistance Compact shall register with a registration system that complies with proposed law as a volunteer health practitioner authorized to provide health services in this state pursuant to the Emergency Management Assistance Compact.

Proposed law 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.

Proposed law provides that 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.

Proposed law 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.

Proposed law provides that GOSEP, DHH, or a state licensing authority may modify or restrict the health services that volunteer health practitioners may provide pursuant to proposed law.

Proposed law provides that a host entity may restrict the health services that a volunteer health practitioner may provide.

Proposed law provides that a volunteer health practitioner shall not be deemed to engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction under proposed law or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner shall be deemed 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 either of the following conditions is met:

- (1) 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.
- (2) 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.

Proposed law provides a state licensing authority for due cause under its applicable laws and rules:

- (1) 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.
- (2) May impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency.
- (3) 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.

Proposed law provides that in determining whether to impose administrative sanctions under proposed law, a state licensing 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.

Proposed law provides that administrative sanctions may include, but are not limited to, the restriction, suspension, or revocation of authority to provide health services in this state.

Proposed law provides that any administrative sanction imposed on the authority of a health practitioner to practice during a declared emergency under the provisions of proposed law shall be carried out in the following manner:

- (1) Registration to provide health services in this state during a declared emergency shall constitute and operate as an authorization and consent by a volunteer health practitioner to submission to the jurisdiction of the state licensing authority, to produce documents, records, and materials and appear before the state licensing authority or its designee upon request, to immediately restrict or cease, desist, and withdraw from providing health services in this state upon notification by the state licensing authority of a restriction, suspension, or revocation of authority to provide such services, and to designate and appoint the voluntary health practitioner registration system providing notice of registration to the state licensing authority, or a host entity, hospital or affiliate for or at which he or she may be providing services, to receive any notice provided by a state licensing authority.
- (2) Any notice under proposed law may be provided orally, in writing, electronically, or by any other means practical under the circumstances, to either the health practitioner, the voluntary health practitioner registration system providing notification of registration to the state licensing authority, a host entity, or a hospital or affiliate for or at which the health practitioner may be providing services.
- (3) All rights to a hearing on administrative sanctions imposed by a state licensing authority shall be held in abeyance until no less than 30 days after the termination of the declared emergency.
- (4) A health practitioner may request an explanation for administrative sanctions on his or her authority to practice or a hearing by the state licensing authority or both, following termination of the emergency declaration, or as otherwise may be provided by applicable emergency orders.
- (5) In the event a hearing is not requested within 60 days following the date of termination of the emergency declaration, or as otherwise may be provided by applicable emergency orders, administrative sanctions imposed by the state licensing authority shall be deemed to constitute a final order or decision of such authority.

Proposed law does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than proposed law. The provisions of proposed law do not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

Proposed law provides that GOSEP or DHH, and state licensing authorities may promulgate rules in accordance with the APA to implement proposed law. In doing so, GOSEP or DHH and state licensing authorities shall also consult with and consider rules promulgated by similarly empowered agencies in other states to promote uniformity of application of proposed law and make the emergency response systems in the various states reasonably compatible.

Proposed law provides that, except for certain circumstances, a volunteer health practitioner who provides health services pursuant to proposed law shall not be liable for damages for

an act or omission of the practitioner in providing those services.

Proposed law provides that no person shall be vicariously liable for damages for an act or omission of a volunteer health practitioner if the practitioner is not liable for the damages under proposed law.

Proposed law does not limit the liability of a volunteer health practitioner for any of the following:

- (1) Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.
- (2) An intentional tort.
- (3) A breach of contract.
- (4) A claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the practitioner.
- (5) An act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle.

Proposed law provides that no person that operates, uses, or relies upon information provided by a volunteer health practitioner registration system shall be liable for damages for an act or omission relating to that operation, use, or reliance unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

Proposed law provides that it shall be construed so as to effectuate its general purpose to make uniform the law of those states which enact it.

Effective August 15, 2009.

(Adds R.S. 29:781-792; repeals R.S. 29:735.2(A))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill.

1. Removes practitioners who only provide veterinary services from the provisions of this Act.
2. Removes provisions which allow a volunteer health practitioner to receive benefits under the workers' compensation law of this state in the event of death or injury.
3. Technical amendments.