INTRODUCED BY DELOZIER, BARRAR, AUMENT, BAKER, BOBACK, R. BROWN, D. COSTA, CUTLER, GILLEN, GINGRICH, GRELL, HICKERNELL, KAUFFMAN, M. K. KELLER, KORTZ, MAHONEY, MILNE, MURT, SWANGER AND WATSON, FEBRUARY 5, 2013

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, FEBRUARY 5, 2013

AN ACT

Amending Titles 35 (Health and Safety) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, establishing a system for the use of volunteer health practitioners; providing reasonable safeguards to assure that health practitioners are appropriately licensed and regulated to protect the public’s health; providing for applicability of workers' compensation and occupational disease law; and providing for limitation of civil damages.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7706(a) introductory paragraph of Title 35 of the Pennsylvania Consolidated Statutes is amended to read:

§ 7706. Compensation for accidental injury.

(a) Benefits.—[All] Except as set forth in section 7912 (relating to workers' compensation coverage), all duly enrolled emergency management volunteers, and such other volunteers as the agency shall by regulation qualify, who are not eligible to receive benefits under the Workmen's Compensation Laws shall be entitled, except during a state of war or period of armed
conflict within the continental limits of the United States, to
the following benefits relating to injuries sustained while
actually engaged in emergency management activities and services
or in or en route to and from emergency management tests,
drills, exercises or operations authorized by the Pennsylvania
Emergency Management Agency and carried out in accordance with
rules and orders promulgated and adopted by the agency:

* * *

Section 2. Title 35 is amended by adding a chapter to read:

CHAPTER 79

UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS

Sec.

7901. Short title of chapter.

7902. Definitions.

7903. Applicability to volunteer health practitioners.

7904. Regulation of services during emergency.

7905. Volunteer health practitioner registration systems.

7906. Recognition of volunteer health practitioners licensed in

other states.

7907. No effect on credentialing and privileging.

7908. Provision of volunteer health or veterinary services;

administrative sanctions.

7909. Relation to other laws.

7910. Regulatory authority.

7911. Limitations on civil liability for volunteer health

practitioners.

7912. Workers' compensation coverage.

7913. Uniformity of application and construction.

§ 7901. Short title of chapter.

This chapter shall be known and may be cited as the Uniform
§ 7902. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Health of the Commonwealth.

"Disaster relief organization." An entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:

(1) 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 Pennsylvania Emergency Management Agency; or

(2) regularly plans and conducts its activities in coordination with an agency of the Federal Government or the Pennsylvania Emergency Management Agency.

"Emergency." An event or condition that is a disaster or disaster emergency.

"Emergency declaration." A declaration of emergency issued by a person authorized to do so under the laws of this Commonwealth.


"Entity." A person other than an individual.

"Health facility." An entity licensed under the laws of this Commonwealth or another state to provide health or veterinary services.
"Health practitioner." An individual licensed under the laws of this Commonwealth or another state to provide health or veterinary services.

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

(1) 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;

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

(3) funeral, cremation, cemetery or other mortuary services.

"Host entity." An entity operating in this Commonwealth which uses volunteer health practitioners to respond to an emergency.

"License." 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 Commonwealth to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

"Person." Any 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.

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

"State." A state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

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

(1) 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;

(2) use of a procedure for reproductive management; and

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

"Volunteer health practitioner." A health practitioner who provides health or veterinary services, whether or not the health practitioner receives compensation for those services. The term does not include a health practitioner who receives compensation pursuant to a preexisting employment relationship.
with a host entity or affiliate which requires the health practitioner to provide health services in this Commonwealth, unless the health practitioner is not a resident of this Commonwealth and is employed by a disaster relief organization providing services in this Commonwealth while an emergency declaration is in effect.

§ 7903. Applicability to volunteer health practitioners. This chapter applies to volunteer health practitioners registered with a registration system that complies with section 7905 (relating to volunteer health practitioner registration systems) and who provide health or veterinary services in this Commonwealth for a host entity while an emergency declaration is in effect.

§ 7904. Regulation of services during emergency. (a) Authorization.--When an emergency declaration is in effect, the agency or the department may issue an order to 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; and

(4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) Procedure.--An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a regulation within the meaning of:

(1) the act of July 31, 1968 (P.L.769, No.240), referred
to as the Commonwealth Documents Law;

(2) the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act; or


(c) Host entities.--A host entity that uses volunteer health practitioners to provide health or veterinary services in this Commonwealth shall:

(1) consult and coordinate its activities with the agency and the department to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) comply with any law other than this chapter relating to the management of emergency health or veterinary services.

§ 7905. Volunteer health practitioner registration systems.

(a) Qualifications.--To qualify as a volunteer health practitioner registration system, a system must:

(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 volunteer health practitioners which is accessible by authorized persons;

(3) 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

(4) meet one of the following conditions:

(i) be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services
Administration under section 319I of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 247d-7b);

(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 Service Act (42 U.S.C. § 300hh);

(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 health care services, including a tertiary care and teaching hospital; or

(E) governmental entity; or

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

(b) Confirmation.--When an emergency declaration is in effect, the agency, a person authorized to act on behalf of the agency or a host entity may confirm whether volunteer health practitioners utilized in this Commonwealth are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the volunteer health practitioners from the system and determining whether the system indicates that they are licensed and in good standing.

(c) Notice.--Upon request of a person in this Commonwealth authorized under subsection (b) or a similarly authorized person in another state, a registration system located in this Commonwealth shall notify the person of the identities of volunteer health practitioners and whether they are licensed and
in good standing.

(d) Effect.--A host entity is not required to use the
services of a volunteer health practitioner even if the health
practitioner is registered with a registration system that
indicates that the health practitioner is licensed and in good
standing.

§ 7906. Recognition of volunteer health practitioners licensed
in other states.

(a) Practice allowed.--When an emergency declaration is in
effect, a volunteer health practitioner, registered with a
registration system that complies with section 7905 (relating to
volunteer health practitioner registration systems) and licensed
and in good standing in the state upon which the health
practitioner's registration is based, may practice in this
Commonwealth to the extent authorized by this chapter as if the
health practitioner were licensed in this Commonwealth.

(b) Exception.--A volunteer health practitioner qualified
under subsection (a) is not entitled to the protections of this
chapter if the health practitioner is licensed in more than one
state and any license of the health practitioner:

(1) is suspended, revoked or subject to an agency order
limiting or restricting practice privileges; or

(2) has been voluntarily terminated under threat of
sanction.

§ 7907. No effect on credentialing and privileging.

(a) (Reserved).

(b) General rule.--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.
(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Credentialing." Obtaining, verifying and assessing the qualifications of a health practitioner to provide treatment, care or services in or for a health facility.

"Privileging." 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.

§ 7908. Provision of volunteer health or veterinary services; administrative sanctions.

(a) Scope of practice.--Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed health practitioner established by the licensing provisions, practice acts or other laws of this Commonwealth.

(b) Outside scope of practice.--Except as otherwise provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the health practitioner's scope of practice, even if a similarly licensed health practitioner in this Commonwealth would be permitted to provide the services.

(c) Department authority.--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 regulation within the meaning.
of:

(1) the act of July 31, 1968 (P.L.769, No.240), referred
to as the Commonwealth Documents Law;

(2) the act of October 15, 1980 (P.L.950, No.164), known
as the Commonwealth Attorneys Act; or

(3) the act of June 25, 1982 (P.L.633, No.181), known as
the Regulatory Review Act.

(d) Host entity authority.--A host entity may restrict the
health or veterinary services that a volunteer health
practitioner may provide pursuant to this chapter.

(e) Unauthorized practice defined.--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
health practitioner in this Commonwealth 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 health practitioner in this
Commonwealth would not be permitted to provide a service if:

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

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

(f) Licensing boards.--In addition to the authority granted
by laws of this Commonwealth other than this chapter to regulate
the conduct of health practitioners, a licensing board or other
disciplinary authority in this Commonwealth:

(1) may impose administrative sanctions upon a health
practitioner licensed in this Commonwealth for conduct
outside of this Commonwealth in response to an out-of-State emergency;

(2) may impose administrative sanctions upon a health
practitioner not licensed in this Commonwealth for conduct in
this Commonwealth in response to an in-State emergency; and

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

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

§ 7909. Relation to other laws.

(a) Emergency Management Assistance Compact.--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 (b), this chapter
does not affect requirements for the use of health practitioners
pursuant to the Emergency Management Assistance Compact.

(b) Emergency forces.--The agency, pursuant to the Emergency
Management Assistance Compact, may incorporate into the
emergency forces of this Commonwealth volunteer health practitioners who are not officers or employees of this Commonwealth or a political subdivision.

§ 7910. Regulatory authority.

The agency and the department may promulgate regulations to implement this chapter. In doing so, the agency and the department shall consider regulations 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.

§ 7911. Limitations on civil liability for volunteer health practitioners.

Civil liability for volunteer health practitioners is limited under 42 Pa.C.S. § 8340.3 (relating to limitations on civil liability for volunteer health practitioners).

§ 7912. Workers' compensation coverage.

(a) (Reserved).

(b) Status of volunteer health practitioners.-- Notwithstanding section 7706 (relating to compensation for accidental injury), a volunteer health practitioner who provides health or veterinary services pursuant to this chapter and who is not otherwise eligible for benefits for injury or death under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, or under the workers' compensation or occupational disease law of another state may elect to be deemed an employee of this Commonwealth for the purpose of receiving such benefits by making a claim in accordance with the Workers' Compensation Act or The Pennsylvania Occupational Disease Act. The average weekly wage...
of a volunteer health practitioner claiming such benefits shall
be determined in the same manner as provided for auxiliary
police under section 2 of the act of May 17, 1957 (P.L.152,
No.71), entitled "A Supplement to the act of June 2, 1915
(P.L.736), entitled, as amended 'An act defining the liability
of an employer to pay damages for injuries received by an
employee in the course of employment; establishing an elective
schedule of compensation; providing procedure for the
determination of liability and compensation thereunder; and
prescribing penalties,' providing for the payment of
compensation to auxiliary police or their dependents."

(c) Administration.--The Department of Labor and Industry
shall promulgate regulations, enter into agreements with other
states or take other measures to facilitate the receipt of
benefits for injury or death under the Workers' Compensation Act
or The Pennsylvania Occupational Disease Act by volunteer health
practitioners who reside in other states and may waive or modify
requirements for filing, processing and paying claims that
unreasonably burden the volunteer health practitioners. To
promote uniformity of application of this chapter with other
states that enact similar legislation, the Department of Labor
and Industry shall consult with and consider the approaches to
filing, processing and paying claims taken by agencies with
similar authority in other states.

(d) Definition.--As used in this section, the term "injury"
means a physical or mental injury or disease for which an
employee of this Commonwealth who is injured or contracts the
disease in the course of the employee's employment would be
entitled to benefits under the Workers' Compensation Act or The
Pennsylvania Occupational Disease Act.
§ 7913. Uniformity of application and construction.

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

Section 3. Title 42 is amended by adding a section to read:

§ 8340.3. Limitations on civil liability for volunteer health practitioners.

(a) Limitation of liability.--Subject to subsection (b), a volunteer health practitioner who does not receive compensation that exceeds $500 per year for providing health or veterinary services pursuant to 35 Pa.C.S. Ch. 79 (relating to uniform emergency volunteer health practitioners) is not liable for damages for an act or omission of the volunteer health practitioner in providing those services. Reimbursement of or allowance for reasonable expenses or continuation of salary while on leave is not compensation under this subsection.

(b) Exclusion.--This section does not limit the liability of a volunteer health practitioner for:

(1) willful misconduct or wanton, grossly negligent, reckless or criminal conduct;

(2) an intentional tort;

(3) breach of contract;

(4) a claim asserted by a host entity or by an entity located in this Commonwealth or another state which employs or uses the services of the volunteer health practitioner; or

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

(c) Information.--A person that, pursuant to 35 Pa.C.S. Ch. 79, operates, uses or relies upon information provided by a volunteer health practitioner registration system under 35
Pa.C.S. § 7905 (relating to volunteer health practitioner registration systems) is not 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.

(d) Applicability of subchapter.--In addition to the protections provided in subsection (a), a volunteer health practitioner providing health or veterinary services pursuant to 35 Pa.C.S. Ch. 79 is entitled to all the rights, privileges or immunities provided by other applicable provisions of this subchapter.

(e) Uniformity of application and construction.--In applying and construing this section, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Health practitioner." As defined in 35 Pa.C.S. § 7902 (relating to definitions).

"Volunteer health practitioner." As defined in 35 Pa.C.S. § 7902 (relating to definitions).

Section 4. This act shall apply as follows:

(1) The addition of 35 Pa.C.S. § 7912 shall apply to claims for injuries which occur on or after the effective date of this paragraph.

(2) The addition of 42 Pa.C.S. § 8340.3 shall apply to causes of action which arise on or after the effective date of this paragraph.

Section 5. This act shall take effect in 60 days.