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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

No. **1235** Session of  
2014

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REFERRED TO PUBLIC HEALTH AND WELFARE, FEBRUARY 4, 2014

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AN ACT

1 Providing for emergency volunteer health practitioners  
2 uniformity; and repealing the Counterterrorism Planning,  
3 Preparedness and Response Act.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Uniform  
10 Emergency Volunteer Health Practitioners Act.

11 Section 2. Definitions.

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

15 "Declaration of disaster emergency." A declaration of  
16 emergency issued by a person authorized to do so under the laws  
17 of this Commonwealth.

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

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

23 (1) is designated or recognized as a provider of those  
24 services pursuant to a disaster response and recovery plan  
25 adopted by an agency of the Federal Government or the  
26 Pennsylvania Emergency Management Agency; or

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

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

1 disaster emergency.

2 "Emergency Management Assistance Compact." The interstate  
3 compact approved by Congress by Public Law 104-321, 110 Stat. §  
4 3877 and set forth in 35 Pa.C.S. § 7601 (relating to compact  
5 enacted).

6 "Entity." A person other than an individual.

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

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

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

17 (1) the following, concerning the physical or mental  
18 condition or functional status of an individual or affecting  
19 the structure or function of the body:

20 (i) preventive, diagnostic, therapeutic,  
21 rehabilitative, maintenance or palliative care; and

22 (ii) counseling, assessment, procedures or other  
23 services;

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

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

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

1 emergency.

2 "License." Authorization by a state to engage in health or  
3 veterinary services that are unlawful without the authorization.  
4 The term includes authorization under the laws of this  
5 Commonwealth to an individual to provide health or veterinary  
6 services based upon a national certification issued by a public  
7 or private entity.

8 "Person." Any individual, corporation, business trust,  
9 trust, partnership, limited liability company, association,  
10 joint venture, public corporation, government or governmental  
11 subdivision, agency or instrumentality or any other legal or  
12 commercial entity.

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

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

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

27 (1) diagnosis, treatment or prevention of an animal  
28 disease, injury or other physical or mental condition by the  
29 prescription, administration or dispensing of vaccine,  
30 medicine, surgery or therapy;

1           (2) use of a procedure for reproductive management; and  
2           (3) monitoring and treatment of animal populations for  
3 diseases that have spread or demonstrate the potential to  
4 spread to humans.

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

16 Section 3. Applicability to volunteer health practitioners.

17       This act applies to volunteer health practitioners registered  
18 with a registration system that complies with section 5 and who  
19 provide health or veterinary services in this Commonwealth for a  
20 host entity while an emergency declaration is in effect.

21 Section 4. Regulation of services during emergency.

22       (a) Authorization.--When an emergency declaration is in  
23 effect, the agency or the department may issue an order to  
24 limit, restrict or otherwise regulate:

25           (1) the duration of practice by volunteer health  
26 practitioners;

27           (2) the geographical areas in which volunteer health  
28 practitioners may practice;

29           (3) the types of volunteer health practitioners who may  
30 practice;

1 (4) whether and to what extent volunteer health or  
2 veterinary services may be provided by host entities  
3 specifically or in general; and

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

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

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

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

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

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

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

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

25 Section 5. Volunteer health practitioner registration systems.

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

28 (1) accept applications for the registration of  
29 volunteer health practitioners before or during an emergency;

30 (2) include information about the licensure and good

1 standing of volunteer health practitioners which is  
2 accessible by authorized persons;

3 (3) be capable of confirming the accuracy of information  
4 concerning whether a health practitioner is licensed and in  
5 good standing before health services or veterinary services  
6 are provided under this act; and

7 (4) meet one of the following conditions:

8 (i) be an emergency system for advance registration  
9 of volunteer health practitioners established by a state  
10 and funded through the Health Resources Services  
11 Administration under section 319I of the Public Health  
12 Service Act (58 Stat. 682, 42 U.S.C. § 247d-7b), such as  
13 the State Emergency Registry for Volunteers in  
14 Pennsylvania (SERVPA);

15 (ii) be a local unit consisting of trained and  
16 equipped emergency response, public health and medical  
17 personnel formed pursuant to section 2801 of the Public  
18 Health Service Act;

19 (iii) be operated by a:

20 (A) disaster relief organization;

21 (B) licensing board;

22 (C) national or regional association of  
23 licensing boards or health practitioners;

24 (D) health facility that provides comprehensive  
25 inpatient and outpatient health care services,  
26 including a tertiary care and teaching hospital; or

27 (E) governmental entity; or

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

30 (b) Confirmation.--When an emergency declaration is in

1 effect, the agency, the department or a person authorized to act  
2 on behalf of the agency or a host entity may confirm whether  
3 volunteer health practitioners utilized in this Commonwealth are  
4 registered with a registration system that complies with  
5 subsection (a). Confirmation is limited to obtaining identities  
6 of the volunteer health practitioners from the system and  
7 determining whether the system indicates that they are licensed  
8 and in good standing.

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

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

20 Section 6. Recognition of volunteer health practitioners  
21 licensed in other states.

22 (a) Practice allowed.--When an emergency declaration is in  
23 effect, a volunteer health practitioner, registered with a  
24 registration system that complies with section 5 and licensed  
25 and in good standing in the state upon which the health  
26 practitioner's registration is based, may practice in this  
27 Commonwealth to the extent authorized by this act as if the  
28 health practitioner were licensed in this Commonwealth.

29 (b) Exception.--A volunteer health practitioner qualified  
30 under subsection (a) is not entitled to the protections of this

1 act if the health practitioner is licensed in more than one  
2 state and any license of the health practitioner:

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

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

7 Section 7. No effect on credentialing and privileging.

8 (a) (Reserved).

9 (b) General rule.--This act does not affect credentialing or  
10 privileging standards of a health facility and does not preclude  
11 a health facility from waiving or modifying those standards  
12 while an emergency declaration is in effect.

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

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

19 "Privileging." The authorizing by an appropriate authority,  
20 such as a governing body, of a health practitioner to provide  
21 specific treatment, care or services at a health facility  
22 subject to limits based on factors that include license,  
23 education, training, experience, competence, health status and  
24 specialized skill.

25 Section 8. Provision of volunteer health or veterinary  
26 services; administrative sanctions.

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

1 laws of this Commonwealth.

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

8 (c) Department authority.--The department may modify or  
9 restrict the health or veterinary services that volunteer health  
10 practitioners may provide pursuant to this act. An order under  
11 this subsection may take effect immediately, without prior  
12 notice or comment, and is not a regulation within the meaning  
13 of:

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

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

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

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

23 (e) Unauthorized practice defined.--A volunteer health  
24 practitioner does not engage in unauthorized practice unless the  
25 practitioner has reason to know of any limitation, modification  
26 or restriction under this section or that a similarly licensed  
27 health practitioner in this Commonwealth would not be permitted  
28 to provide the services. A volunteer health practitioner has  
29 reason to know of a limitation, modification or restriction or  
30 that a similarly licensed health practitioner in this

1 Commonwealth would not be permitted to provide a service if:

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

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

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

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

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

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

28 (g) Discretion of licensing boards.--In determining whether  
29 to impose administrative sanctions under subsection (f), a  
30 licensing board or other disciplinary authority shall consider

1 the circumstances in which the conduct took place, including any  
2 exigent circumstances, and the health practitioner's scope of  
3 practice, education, training, experience and specialized skill.

4 Section 9. Relation to other laws.

5 (a) Emergency Management Assistance Compact.--This act does  
6 not limit rights, privileges or immunities provided to volunteer  
7 health practitioners by laws other than this act. Except as  
8 otherwise provided in subsection (b), this act does not affect  
9 requirements for the use of health practitioners pursuant to the  
10 Emergency Management Assistance Compact.

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

16 Section 10. Regulatory authority.

17 The agency and the department may promulgate regulations to  
18 implement this act. In doing so, the agency and the department  
19 shall consider regulations promulgated by similarly empowered  
20 agencies in other states to promote uniformity of application of  
21 this act and make the emergency response systems in the various  
22 states reasonably compatible.

23 Section 11. Limitations on civil liability.

24 (a) Immunity.--A volunteer health practitioner or host  
25 entity that is not an agent of the Commonwealth, a Commonwealth  
26 agency, a political subdivision or a local agency and that  
27 provides health services or veterinary services in compliance  
28 with this act is not subject to civil liability, for the death  
29 or bodily injury of an individual or for loss or damage to  
30 property, arising out of an act or omission of the practitioner

1 in providing those services to the same extent as an individual  
2 engaged in disaster services activities under 35 Pa.C.S. § 7704  
3 (relating to immunity from civil liability).

4 (b) Information.--A person who, pursuant to this act,  
5 operates, uses or relies upon information provided by a  
6 volunteer health practitioner registration system under section  
7 5 is not liable for damages for an act or omission relating to  
8 that operation, use or reliance unless the act or omission is an  
9 intentional tort or is willful misconduct or wanton, grossly  
10 negligent, reckless or criminal conduct.

11 (c) Applicability.--In addition to the protections provided  
12 in subsection (a), a volunteer health practitioner providing  
13 health or veterinary services pursuant to this act is entitled  
14 to all the rights, privileges or immunities provided by law.  
15 Section 12. Workers' compensation coverage.

16 (a) (Reserved).

17 (b) Status of volunteer health practitioners.--A volunteer  
18 health practitioner who provides health services pursuant to  
19 this act and who is not otherwise eligible for benefits for  
20 injury or death under the act of June 2, 1915 (P.L.736, No.338),  
21 known as the Workers' Compensation Act, or the act of June 21,  
22 1939 (P.L.566, No.284), known as The Pennsylvania Occupational  
23 Disease Act, or under the workers' compensation or occupational  
24 disease law of another state may be eligible to receive benefits  
25 under 35 Pa.C.S. § 7706 (relating to compensation for accidental  
26 injury).

27 (c) Administration.--The Department of Labor and Industry  
28 may promulgate regulations, enter into agreements with other  
29 states or take other measures to facilitate the receipt of  
30 benefits for injury or death under the Workers' Compensation Act

1 or The Pennsylvania Occupational Disease Act by volunteer health  
2 practitioners who reside in other states and may waive or modify  
3 requirements for filing, processing and paying claims that  
4 unreasonably burden the volunteer health practitioners. To  
5 promote uniformity of application of this act with other states  
6 that enact similar legislation, the Department of Labor and  
7 Industry shall consult with and consider the approaches to  
8 filing, processing and paying claims taken by agencies with  
9 similar authority in other states.

10 Section 13. Uniformity of application and construction.

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

14 Section 14. Repeals.

15 Repeals are as follows:

16 (1) The General Assembly declares that the repeal under  
17 paragraph (2) is necessary to effectuate this act.

18 (2) The act of December 16, 2002 (P.L.1967, No.227),  
19 known as the Counterterrorism Planning, Preparedness and  
20 Response Act, is repealed.

21 Section 15. Applicability.

22 This act shall apply as follows:

23 (1) The addition of section 11 of the act shall apply to  
24 causes of action which arise on or after the effective date  
25 of this paragraph.

26 (2) The addition of section 12 of the act shall apply to  
27 claims for injuries which occur on or after the effective  
28 date of this paragraph.

29 Section 16. Effective date.

30 This act shall take effect immediately.