WEST VIRGINIA CODE CHAPTER 29 ARTICLE 30

WV Legislature

§29-30-1. Short title.

This article shall be cited as the Emergency Volunteer Health Practitioners Act.

WV Legislature

§29-30-2. Definitions.

The following words have the following meaning:

(a) “Credentialing” means obtaining, verifying and assessing the qualifications of a health practitioner to provide treatment, care or services in or for a health facility.

(b) “Disaster relief organization” means 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 by the Governor of this state; or

(2) Regularly plans and conducts its activities in coordination with an agency of the federal government or any agency designated by the Governor.

(c) “Emergency” means an event or condition that is an emergency, disaster or public health emergency pursuant to a declaration of the Governor or any agency designated by the Governor.

(d) “Emergency declaration” means a declaration of emergency issued by the Governor or his or her designee pursuant to the laws of this state.

(e) “Emergency Management Assistance Compact” means the interstate compact approved by Congress by Public Law No. 104-321,110 Stat. 3877.

(f) “Entity” means a person other than an individual.

(g) “Health facility” means an entity licensed pursuant to the laws of this or another state to provide health or veterinary services.

(h) “Health practitioner” means an individual licensed pursuant to the laws of this or another state to provide health or veterinary services. For the purposes of this article, a health practitioner includes a physician, a physician assistant, a dentist, a dental hygienist, a pharmacist, a pharmacy technician, a pharmacy intern, a registered professional nurse, a licensed practical nurse, an optometrist, an osteopathic physician, a chiropractor, a physical therapist, a psychologist, an occupational therapist and a veterinarian.

(i) “Health services” means the provision of treatment, care, advice or guidance, or other services or 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:

WV Legislature

(A) Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care; and

(B) 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.

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

(k) "License" means authorization and licensing by an appropriate licensing board to engage in health or veterinary services that are unlawful without the license. The term includes authorization pursuant to the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

(l) "Person" means an 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.

(m) "Privileging" means 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.

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

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

(p) "Veterinary services" means the provision of treatment, care, advice or guidance or other services or 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 a 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

WV Legislature

demonstrate the potential to spread to humans.

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

WV Legislature

§29-30-3. Applicability.

This article applies to volunteer health practitioners registered with a registration system pursuant to section five of this article and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

WV Legislature

§29-30-4. Regulation during an emergency.

(a) While an emergency declaration is in effect, the Governor or his or her designee 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; and

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

(b) An order issued pursuant to this section may take effect immediately.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

(1) Consult and coordinate its activities with the Governor or his or her designee to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) Comply with any laws of this state relating to the management of emergency health or veterinary services.

WV Legislature

§29-30-5. Volunteer health practitioner registration system.

(a) 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 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 pursuant to this article; and

(4) Meet one of the following conditions:

(A) Be an emergency system for advance registration of volunteer health care practitioners established by a state and funded through the Department of Health and Human Services pursuant to Section 319I of the Public Health Services Act, 42 U. S. C. Section 247d-7b, as amended;

(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. Section 300hh as amended;

(C) Be operated by a:

(i) Disaster relief organization;

(ii) Licensing board;

(iii) National or regional association of licensing boards or health practitioners;

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

(v) Governmental entity; or

(D) Be designated by the Governor or his or her designee as a registration system for purposes of this article.

(b) While an emergency declaration is in effect, the Governor or his or her designee or a host entity, may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with this article. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

WV Legislature

(c) Upon request of a person in this state authorized pursuant to this article, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) 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 is licensed and in good standing.

WV Legislature

§29-30-6. Recognition of volunteer health practitioners licensed in other states.

(a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system pursuant to this article 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 this article as if the practitioner were licensed in this state.

(b) A volunteer health practitioner qualified pursuant to this article is not entitled to the protections of this article if the practitioner is licensed in more than one state and 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.

WV Legislature

§29-30-7. Credentialing and privileging.

The provisions of this article do 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.

WV Legislature

§29-30-8. Administrative sanctions.

(a) Subject to subsections (b) and (c) of this section, 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.

(b) Except as otherwise provided in subsection (c) of this section, this section 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.

(c) The State Health Officer may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this article. An order issued pursuant to this section takes effect immediately.

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

(e) 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 practitioner in this state 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 practitioner in this state would not be permitted to provide a service if:

(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; or

(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.

(f) In addition to the authority granted by law of this state other than this to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

(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; and

(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.

WV Legislature

(g) In determining whether to impose administrative sanctions under subsection (f) of this section, a licensing board or other disciplinary 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.

WV Legislature

§29-30-9. Relation to other laws.

(a) Nothing contained in this article limits rights, privileges or immunities provided to volunteer health practitioners by laws other than this article. Except as otherwise provided in subsection (b) of this section, this article does not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

(b) The Department of Health, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state or a municipality or other local government within this state.

WV Legislature

§29-30-10. Limitation of liability.

(a) Subject to subsection (b) of this section, a volunteer health practitioner who provides health or veterinary services pursuant to this article is not liable for damages for an act or omission of the practitioner in providing those services unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless or criminal conduct.

(b) 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 or another state which employs or uses the services of the practitioner; or

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

(c) A person that operates, uses or relies upon information provided by a volunteer health practitioner registration system 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.

WV Legislature

§29-30-11. Rulemaking.

The Secretary of the Department of Health may promulgate rules pursuant to article three, chapter twenty-nine-a of this code to implement the provisions of this article. These rules shall include measures to facilitate the receipt of benefits for injury or death pursuant to the workers' compensation laws of this state by volunteer health practitioners who reside in other states.

WV Legislature