

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2032

By: Coffee

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Uniform Emergency Volunteer Health Practitioners  
9 Act; providing short title; defining terms; providing  
10 for application; authorizing the State Department of  
11 Health to regulate volunteer health practitioners in  
12 a declared emergency; requiring certain consultation  
13 and compliance of specified host entities; setting  
14 requirements for a volunteer health practitioner  
15 registration system; permitting certain confirmation;  
16 requiring certain notification; authorizing host  
17 entities to refuse the services of a volunteer health  
18 practitioner; permitting certain volunteer health  
19 practitioners to practice in this state during a  
20 declared emergency; prohibiting certain volunteer  
21 health practitioners from certain protections;  
22 clarifying credentialing or privileging standards;  
23 requiring adherence to certain scopes of practice;  
24 prohibiting the providing of services outside a  
practitioner's scope of practice; authorizing the  
Department or a host entity to restrict certain  
services; providing certain protection; permitting  
certain licensing boards to impose administrative  
sanctions; requiring certain reporting; requiring  
certain consideration; providing for certain rights,  
privileges or immunities; permitting the Department  
to incorporate certain volunteer health  
practitioners; authorizing the State Board of Health  
to promulgate rules; requiring consideration for  
uniformity; amending 63 O.S. 2001, Sections 683.9 and  
683.13, as amended by Sections 9 and 12, Chapter 329,  
O.S.L. 2003 (63 O.S. Supp. 2007, Sections 683.9 and  
683.13), which relate to the Emergency Management Act  
of 2003, modifying definition; providing certain  
exclusion; repealing Section 19, Chapter 473, O.S.L.  
2003 (63 O.S. Supp. 2007, Section 6602), which

1 relates to emergency powers regarding licensing and  
2 appointment of health personnel; providing for  
3 codification; and providing an effective date.  
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5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 684.14 of Title 63, unless there  
8 is created a duplication in numbering, reads as follows:

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

11 SECTION 2. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 684.15 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 As used in the Uniform Emergency Volunteer Health Practitioners  
15 Act:

16 1. "Disaster relief organization" means an entity that provides  
17 emergency or disaster relief services that include health or  
18 veterinary services provided by volunteer health practitioners and  
19 that:

- 20 a. is designated or recognized as a provider of those  
21 services pursuant to a disaster response and recovery  
22 plan adopted by an agency of the federal government or  
23 the State Department of Health, and  
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1           b. regularly plans and conducts its activities in  
2           coordination with an agency of the federal government  
3           or the State Department of Health;

4           2. "Emergency" means an event or condition that is an emergency  
5           pursuant to the Oklahoma Emergency Management Act of 2003 or the  
6           Catastrophic Health Emergency Powers Act;

7           3. "Emergency declaration" means a declaration of emergency  
8           issued by a person authorized to do so under the laws of this state  
9           pursuant to the Oklahoma Emergency Management Act of 2003 or the  
10          Catastrophic Health Emergency Powers Act;

11          4. "Emergency Management Assistance Compact" means the  
12          interstate compact approved by Congress by Public Law No. 104-  
13          321,110 Stat. 3877;

14          5. "Entity" means a person other than an individual;

15          6. "Health facility" means an entity licensed under the laws of  
16          this or another state to provide health or veterinary services;

17          7. "Health practitioner" means an individual licensed under the  
18          laws of this or another state to provide health or veterinary  
19          services;

20          8. "Health services" means the provision of treatment, care,  
21          advice or guidance, or other services, or supplies, related to the  
22          health or death of individuals or human populations, to the extent  
23          necessary to respond to an emergency, including:  
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1 a. the following, concerning the physical or mental  
2 condition or functional status of an individual or  
3 affecting the structure or function of the body:

4 (1) preventive, diagnostic, therapeutic,  
5 rehabilitative, maintenance, or palliative care,  
6 and

7 (2) counseling, assessment, procedures, or other  
8 services,

9 b. sale or dispensing of a drug, a device, equipment, or  
10 another item to an individual in accordance with a  
11 prescription, and

12 c. funeral, cremation, cemetery, or other mortuary  
13 services;

14 9. "Host entity" means an entity operating in this state which  
15 uses volunteer health practitioners to respond to an emergency;

16 10. "License" means authorization by a state to engage in  
17 health or veterinary services that are unlawful without the  
18 authorization and includes authorization under the laws of this  
19 state to an individual to provide health or veterinary services  
20 based upon a national certification issued by a public or private  
21 entity;

22 11. "Person" means an individual, corporation, business trust,  
23 trust, partnership, limited liability company, association, joint  
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1 venture, public corporation, government or governmental subdivision,  
2 agency, or instrumentality, or any other legal or commercial entity;

3 12. "Scope of practice" means the extent of the authorization  
4 to provide health or veterinary services granted to a health  
5 practitioner by a license issued to the practitioner in the state in  
6 which the principal part of the practitioner's services are  
7 rendered, including any conditions imposed by the licensing  
8 authority;

9 13. "State" means a state of the United States, the District of  
10 Columbia, Puerto Rico, the United States Virgin Islands, or any  
11 territory or insular possession subject to the jurisdiction of the  
12 United States;

13 14. "Veterinary services" means the provision of treatment,  
14 care, advice or guidance, or other services, or supplies, related to  
15 the health or death of an animal or to animal populations, to the  
16 extent necessary to respond to an emergency, including, but not  
17 limited to:

18 a. diagnosis, treatment, or prevention of an animal  
19 disease, injury, or other physical or mental condition  
20 by the prescription, administration, or dispensing of  
21 vaccine, medicine, surgery, or therapy,

22 b. use of a procedure for reproductive management, and  
23  
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1 c. monitoring and treatment of animal populations for  
2 diseases that have spread or demonstrate the potential  
3 to spread to humans; and

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

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 684.16 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 This Uniform Emergency Volunteer Health Practitioners Act  
17 applies to volunteer health practitioners registered with a  
18 registration system that complies with Section 5 of this act and who  
19 provide health or veterinary services in this state for a host  
20 entity while an emergency declaration is in effect.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 684.17 of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:

1 A. While an emergency declaration is in effect, the State  
2 Department of Health may limit, restrict, or otherwise regulate:

3 1. The duration of practice by volunteer health practitioners;

4 2. The geographical areas in which volunteer health  
5 practitioners may practice;

6 3. The types of volunteer health practitioners who may  
7 practice; and

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

10 B. An order issued pursuant to subsection A of this section may  
11 take effect immediately, without prior notice or comment, and is not  
12 a rule within the meaning of the Administrative Procedures Act.

13 C. A host entity that uses volunteer health practitioners to  
14 provide health or veterinary services in this state shall:

15 1. Consult and coordinate its activities with the State  
16 Department of Health to the extent practicable to provide for the  
17 efficient and effective use of volunteer health practitioners; and

18 2. Comply with any laws other than this act relating to the  
19 management of emergency health or veterinary services, including the  
20 Oklahoma Emergency Management Act of 2003 and the Catastrophic  
21 Health Emergency Powers Act.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 684.18 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. To qualify as a volunteer health practitioner registration  
2 system, a system must:

3       1. Accept applications for the registration of volunteer health  
4 practitioners before or during an emergency;

5       2. Include information about the licensure and good standing of  
6 health practitioners which is accessible by authorized persons;

7       3. Be capable of confirming the accuracy of information  
8 concerning whether a health practitioner is licensed and in good  
9 standing before health services or veterinary services are provided  
10 under this act; and

11       4. Meet one of the following conditions:

12           a. be an emergency system for advance registration of  
13               volunteer health practitioners established by a state  
14               and funded through the Health Resources Services  
15               Administration under Section 319I of the Public Health  
16               Services Act, 42 U.S.C. Section 247d-7b,

17           b. be a local unit consisting of trained and equipped  
18               emergency response, public health, and medical  
19               personnel formed pursuant to Section 2801 of the  
20               Public Health Services Act, 42 U.S.C. Section 300hh,

21           c. be operated by a:

22               (1) disaster relief organization,

23               (2) licensing board,

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1 (3) national or regional association of licensing  
2 boards or health practitioners,

3 (4) health facility that provides comprehensive  
4 inpatient and outpatient health-care services,  
5 including a tertiary care and teaching hospital,  
6 or

7 (5) governmental entity, or

8 d. be designated by the State Department of Health as a  
9 registration system for purposes of this act.

10 B. While an emergency declaration is in effect, the State  
11 Department of Health, a person authorized to act on behalf of the  
12 Department, or a host entity may confirm whether volunteer health  
13 practitioners utilized in this state are registered with a  
14 registration system that complies with subsection A of this section.  
15 Confirmation is limited to obtaining identities of the practitioners  
16 from the system and determining whether the system indicates that  
17 the practitioners are licensed and in good standing.

18 C. Upon request of a person in this state authorized under  
19 subsection B of this section, or a similarly authorized person in  
20 another state, a registration system located in this state shall  
21 notify the person of the identities of volunteer health  
22 practitioners and whether the practitioners are licensed and in good  
23 standing.

1 D. A host entity shall not be required to use the services of a  
2 volunteer health practitioner even if the practitioner is registered  
3 with a registration system that indicates that the practitioner is  
4 licensed and in good standing.

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 684.19 of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. While an emergency declaration is in effect, a volunteer  
9 health practitioner, registered with a registration system that  
10 complies with Section 5 of this act and licensed and in good  
11 standing in the state upon which the practitioner's registration is  
12 based, may practice in this state to the extent authorized by this  
13 act as if the practitioner were licensed in this state.

14 B. A volunteer health practitioner qualified under subsection A  
15 of this section is not entitled to the protections of this act if  
16 the practitioner is licensed in more than one state and any license  
17 of the practitioner is suspended, revoked, or subject to an agency  
18 order limiting or restricting practice privileges, or has been  
19 voluntarily terminated under threat of sanction.

20 SECTION 7. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 684.20 of Title 63, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. For purposes of this section:  
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1 1. "Credentialing" means obtaining, verifying, and assessing  
2 the qualifications of a health practitioner to provide treatment,  
3 care, or services in or for a health facility; and

4 2. "Privileging" means the authorizing by an appropriate  
5 authority, such as a governing body, of a health practitioner to  
6 provide specific treatment, care, or services at a health facility  
7 subject to limits based on factors that include license, education,  
8 training, experience, competence, health status, and specialized  
9 skill.

10 B. This act does not affect credentialing or privileging  
11 standards of a health facility and does not preclude a health  
12 facility from waiving or modifying those standards while an  
13 emergency declaration is in effect.

14 SECTION 8. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 684.21 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. Subject to subsections B and C of this section, a volunteer  
18 health practitioner shall adhere to the scope of practice for a  
19 similarly licensed practitioner established by the licensing  
20 provisions, practice acts, or other laws of this state.

21 B. Except as otherwise provided in subsection C of this  
22 section, this act does not authorize a volunteer health practitioner  
23 to provide services that are outside the practitioner's scope of  
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1 practice, even if a similarly licensed practitioner in this state  
2 would be permitted to provide the services.

3 C. The State Department of Health may modify or restrict the  
4 health or veterinary services that volunteer health practitioners  
5 may provide pursuant to this act. An order under this subsection  
6 may take effect immediately, without prior notice or comment, and is  
7 not a rule within the meaning of the Administrative Procedures Act.

8 D. A host entity may restrict the health or veterinary services  
9 that a volunteer health practitioner may provide pursuant to this  
10 act.

11 E. A volunteer health practitioner does not engage in  
12 unauthorized practice unless the practitioner has reason to know of  
13 any limitation, modification, or restriction under this section or  
14 that a similarly licensed practitioner in this state would not be  
15 permitted to provide the services. A volunteer health practitioner  
16 has reason to know of a limitation, modification, or restriction or  
17 that a similarly licensed practitioner in this state would not be  
18 permitted to provide a service if:

19 1. The practitioner knows the limitation, modification, or  
20 restriction exists or that a similarly licensed practitioner in this  
21 state would not be permitted to provide the service; or

22 2. From all the facts and circumstances known to the  
23 practitioner at the relevant time, a reasonable person would  
24 conclude that the limitation, modification, or restriction exists or

1 that a similarly licensed practitioner in this state would not be  
2 permitted to provide the service.

3 F. In addition to the authority granted by law of this state  
4 other than this act to regulate the conduct of health practitioners,  
5 a licensing board or other disciplinary authority in this state:

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

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

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

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

22 SECTION 9. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 684.22 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. This act does not limit rights, privileges, or immunities  
2 provided to volunteer health practitioners by laws other than this  
3 act. Except as otherwise provided in subsection B of this section,  
4 this act does not affect requirements for the use of health  
5 practitioners pursuant to the Emergency Management Assistance  
6 Compact.

7       B. The State Department of Health, pursuant to the Emergency  
8 Management Assistance Compact, may incorporate into the emergency  
9 forces of this state volunteer health practitioners who are not  
10 officers or employees of this state, a political subdivision of this  
11 state, or a municipality or other local government within this  
12 state.

13       SECTION 10.       NEW LAW       A new section of law to be codified  
14 in the Oklahoma Statutes as Section 684.23 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16       The State Board of Health may promulgate rules to implement this  
17 act. In doing so, the State Department of Health shall consult with  
18 and consider the recommendations of the entity established to  
19 coordinate the implementation of the Emergency Management Assistance  
20 Compact and shall also consult with and consider rules promulgated  
21 by similarly empowered agencies in other states to promote  
22 uniformity of application of this act and make the emergency  
23 response systems in the various states reasonably compatible.

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1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 684.24 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

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

7 SECTION 12. AMENDATORY 63 O.S. 2001, Section 683.9, as  
8 amended by Section 9, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007,  
9 Section 683.9), is amended to read as follows:

10 Section 683.9 The provisions of this section shall be operative  
11 only during the existence of a natural or man-made emergency. The  
12 existence of such emergency may be proclaimed by the Governor or by  
13 concurrent resolution of the Legislature if the Governor in such  
14 proclamation, or the Legislature in such resolution, finds that an  
15 emergency or disaster has occurred or is anticipated in the  
16 immediate future. Any such emergency, whether proclaimed by the  
17 Governor or by the Legislature, shall terminate upon the  
18 proclamation of the termination thereof by the Governor, or by  
19 passage by the Legislature of a concurrent resolution terminating  
20 such emergency. During such period as such state of emergency  
21 exists or continues, the Governor shall have and may exercise the  
22 following additional emergency powers:

23 1. To activate the Emergency Operations Plan, and to assume  
24 regulatory control over all essential resources of this state,

1 directly or through the boards, agencies, offices and officers  
2 established by ~~said~~ the Emergency Operations Plan, to determine  
3 priorities of such resources and allocate such resources as the  
4 Governor may deem necessary in cooperation with the political  
5 subdivisions of this state, the federal government, or other states.  
6 "Resources" shall mean all economic resources within this state  
7 including but not limited to food, manpower, health ~~and health~~  
8 ~~manpower~~, water, transportation, economic stabilization, electric  
9 power, petroleum, gas, and solid fuel, industrial production,  
10 construction and housing.

11 2. To enforce all laws, rules and regulations relating to  
12 emergency management and to assume direct operational control of any  
13 or all emergency management forces and helpers in this state.

14 3. To provide for the evacuation of all or part of the  
15 population from any stricken or threatened area or areas within this  
16 state and to take such steps as are necessary for the receipt and  
17 care of such evacuees.

18 4. Subject to the provisions of the State Constitution, to  
19 remove from office any public officer having administrative  
20 responsibilities under this act for willful failure to obey any  
21 order, rule or regulation adopted pursuant to this act. Such  
22 removal shall be upon charges after service upon such person of a  
23 copy of such charges and after giving such person an opportunity to  
24 be heard in the defense of such person. Pending the preparation and

1 disposition of charges, the Governor may suspend such person for a  
2 period not exceeding thirty (30) days. A vacancy resulting from  
3 removal or suspension pursuant to this section shall be filled by  
4 the Governor until it is filled as otherwise provided by law.

5 5. To perform and exercise such other functions, powers, and  
6 duties as are necessary to promote and secure the safety and  
7 protection of the civilian population and to carry out the  
8 provisions of the Emergency Operations Plan in a national or state  
9 emergency.

10 SECTION 13. AMENDATORY 63 O.S. 2001, Section 683.13, as  
11 amended by Section 12, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007,  
12 Section 683.13), is amended to read as follows:

13 Section 683.13 A. All functions hereunder and all other  
14 activities relating to emergency management are hereby declared to  
15 be governmental functions. The provisions of this section shall not  
16 affect the right of any person to receive benefits to which the  
17 person would otherwise be entitled under this act, or under the  
18 workers' compensation law, or under any pension law, nor the right  
19 of any such person to receive any benefits or compensation under any  
20 Act of Congress. Any municipal fireman or policeman engaged in any  
21 emergency management activities, while complying with or attempting  
22 to comply with this act or any rule or regulation pursuant thereto,  
23 shall be considered as serving in his or her regular line of duty  
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1 and shall be entitled to all benefits of any applicable pension  
2 fund.

3 B. Any requirement for a license to practice any professional,  
4 mechanical, or other skill shall not apply to any authorized  
5 emergency management worker from any state rendering mutual aid and  
6 who holds a comparable license in that state, who shall practice  
7 such professional, mechanical, or other skill during an emergency  
8 declared under the provisions of this act, when such professional,  
9 mechanical or other skill is exercised in accordance with the  
10 provisions of this act.

11 C. As used in this section, the term "emergency management  
12 worker" shall include any full or part-time paid, volunteer, or  
13 auxiliary employee of this state, or other states, territories,  
14 possession or the District of Columbia, of the federal government,  
15 or any neighboring country, or of any political subdivision thereof,  
16 or of any agency or organization, performing emergency management  
17 services under state supervision, and who has been properly trained  
18 in the performance of emergency management functions, at any place  
19 in this state subject to the order or control of, or pursuant to a  
20 request of, the state government or any political subdivision  
21 thereof. The term emergency management worker shall not include any  
22 volunteer health practitioner subject to the provisions of the  
23 Uniform Emergency Volunteer Health Practitioners Act.

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1 D. Any emergency management worker, as defined in this section,  
2 performing emergency management services at any place in this state  
3 pursuant to agreements, compacts, or arrangements for mutual aid and  
4 assistance, to which the state or a political subdivision thereof is  
5 a party, shall possess the same powers, duties, immunities, and  
6 privileges the person would ordinarily possess if performing the  
7 same duties in the state, province, or political subdivision thereof  
8 in which normally employed or rendering services.

9 SECTION 14. REPEALER Section 19, Chapter 473, O.S.L.  
10 2003 (63 O.S. Supp. 2007, Section 6602), is hereby repealed.

11 SECTION 15. This act shall become effective November 1, 2008.

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