

UNIFORM EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT

SECTION 11. CIVIL LIABILITY FOR VOLUNTEER HEALTH PRACTITIONERS; VICARIOUS LIABILITY.

(a) In this section:

(1) “Coordinating entity” means an entity that acts as a liaison to facilitate communication and cooperation between source and host entities but does not provide health or veterinary services in the ordinary course of its activities as liaison.

(2) “Source entity” means a health facility, disaster relief organization, or other person located in this or another state that employs or uses the services of health practitioners who volunteer to provide healthcare or veterinary services in response to an emergency.

(b) Volunteer health practitioner shall be considered as an agent or an employee of the state under the [act] (Cite to site state tort claim law) for purposes of recovering damages from the state based upon acts or omissions of the health care practitioner in providing health or veterinary services.

(c) Subject to subsection (d), volunteer health practitioners authorized to provide health or veterinary services pursuant to this [act] are not responsible for the payment of judgement based upon the acts or omissions in providing health or veterinary services as volunteer health practitioners nor shall they be named as defendant in an action based upon their acts or omissions.

(d) Notwithstanding subsection (c), this section does not apply to:

(1) willful, wanton, grossly negligent, reckless, or criminal conduct of, or an intentional tort committed by, a volunteer health practitioner;

(2) an action brought against a volunteer health practitioner:

(A) for damages for breach of contract,

(B) by a source or host entity, or

(C) relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle by a volunteer health practitioner for which this state requires the operator to have a valid operator’s license or to maintain liability insurance, other than an ambulance or other emergency response vehicle, vessel, or aircraft used in response to request for health services or transport of a patient as a volunteer health practitioner.

(e) Source, coordinating, and host entities are not vicariously liable for the acts or omissions of volunteer health practitioners undertaken pursuant to this [act] and in providing health or veterinary services as volunteer health practitioners.

(f) Source, coordinating, and host entities are not liable for civil damages for the operation of, or reliance upon information provided by, a registration system unless the acts or omissions constitute an intentional tort or are willful, wanton, grossly negligent, reckless, or criminal in nature.

Legislative Note: This subsection should be revised as necessary based upon the provisions of the state's tort claims act to provide for the award of damages by the state to individuals injured as a result of the negligent actions of volunteer health practitioners and to ensure that volunteer health practitioners will not be personally liable for civil damages to the extent provided by subsections (c) and (d).

SECTION 12. WORKERS' COMPENSATION COVERAGE. A volunteer health practitioner who is providing health or veterinary services in this state pursuant to this [act] in response to an emergency, or who is traveling to or from this state to provide such services, and who is not covered by workers' compensation insurance or other insurance providing comparable benefits, shall be considered an employee of this state for purposes of workers' compensation coverage. Workers' compensation benefits for volunteer health practitioners are limited to those benefits provided to state employees under the laws of this state.

Consider definition of Workman's Compensation or just use terms of "loss wages" and paid for "medical expenses"

Consider definition of volunteer lost wages. Is it based on the position provided in host state or based on source state salary of gainful employment? Too be defined by host state or courts?

Provide at least three options in the proposal

1. Is the coverage secondary to existing VHP "Work Compensation / insurance" (Any volunteer covered by host state but insurance last resort)? or primary coverage?
2. Host state is the primary "work Compensation" as if employee of the host state
3. Limited to medical expenses only and does not provide coverage for lost wages
4. Above drafted language in Workers' Compensation Coverage