

CHAPTER 96

(HB 287)

AN ACT relating to the Uniform Emergency Volunteer Health Practitioners Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 39G IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act:

- (1) *"Disaster relief organization" means an entity that provides emergency or disaster relief services that include health services provided by volunteer health practitioners and that:*
 - (a) *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 Kentucky Division of Emergency Management; or*
 - (b) *Regularly plans and conducts its activities in coordination with an agency of the federal government or the Kentucky Division of Emergency Management;*
- (2) *"Emergency" has the same meaning as used in KRS 39A.020;*
- (3) *"Emergency declaration" has the same meaning as "declared emergency" as used in KRS 39A.020;*
- (4) *"Emergency Management Assistance Compact" means the interstate compact established under KRS 39A.950;*
- (5) *"Health facility" has the same meaning as used in KRS 216B.015;*
- (6) *"Health practitioner" means an individual licensed under the laws of this or another state to provide health services;*
- (7) *"Health services" means:*
 - (a) *The provision of treatment, care, advice or guidance, 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:*
 - 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; or*
 - (b) *The provision of treatment, care, advice or guidance, 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 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;*
- (8) *"Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;*

- (9) *"License" means authorization by a state to engage in health services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health services based upon a national certification issued by a public or private entity;*
- (10) *"Scope of practice" means the extent of the authorization to provide health 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 are rendered, including any conditions imposed by the licensing authority; and*
- (11) *"Voluntary health practitioner" means a health practitioner who provides health 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.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall apply to volunteer health practitioners registered with a registration system that complies with Section 4 of this Act and who provide health services in this state for a host entity while an emergency declaration is in effect.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

- (1) *While an emergency declaration is in effect, the Cabinet for Health and Family Services in coordination with the Kentucky Division of Emergency Management and the appropriate Kentucky licensure boards may regulate:*
 - (a) *The duration and scope of practice by volunteer health practitioners;*
 - (b) *The geographical areas in which volunteer health practitioners may practice;*
 - (c) *The types of volunteer health practitioners who may practice; and*
 - (d) *Any other matters necessary to coordinate effectively the provision of health services during the emergency.*
- (2) *An order issued pursuant to subsection (1) of this section may take effect immediately, without prior notice or comment.*
- (3) *A host entity that uses volunteer health practitioners to provide health services in this state shall:*
 - (a) *Consult and coordinate its activities with the Cabinet for Health and Family Services to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and*
 - (b) *Comply with any laws relating to the management of emergency health services, in addition to Sections 1 to 9 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health and Family Services shall operate the emergency system for advanced registration of volunteer health practitioners. The system shall:*
 - (a) *Accept applications for the registration of volunteer health practitioners before or during an emergency;*
 - (b) *Include information about the licensure and good standing of health practitioners that is accessible by authorized persons; and*
 - (c) *Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services are provided under Sections 1 to 9 of this Act.*
- (2) *The following organizations may maintain a list consisting of trained and equipped emergency response, public health, and medical personnel:*
 - (a) *Local units formed under Section 300hh of Title 42 of the United States Code;*
 - (b) *Disaster relief organizations;*
 - (c) *Licensing boards;*

- (d) *National or regional associations of licensing boards of health practitioners;*
 - (e) *Health facilities that provide comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital; or*
 - (f) *Governmental entities.*
- (3) *The organizations listed in subsection (2) of this section shall develop a collaborative relationship with the cabinet for the purposes of Sections 1 to 9 of this Act and for the purposes of being recognized by the cabinet as a voluntary response resource.*
 - (4) *The cabinet may receive state appropriations, gifts, grants, federal funds, and any other public or private funds to establish or maintain the registration system established in subsection (1) of this section.*
 - (5) *While an emergency declaration is in effect, representatives of the Cabinet for Health and Family Services or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with the registration system that complies with subsection (1) of this section. 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.*
 - (6) *Upon request of a person in this state authorized under subsection (2) of this section, 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.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

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.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 9 of this Act shall not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than Sections 1 to 9 of this Act.*
- (2) *Sections 1 to 9 of this Act shall not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health and Family Services may promulgate administrative regulations to implement Sections 1 to 9 of this Act. In doing so, the Cabinet for Health and Family Services shall consult with and consider the recommendations of the Kentucky Division of Emergency Management and shall also consult with and consider administrative regulations promulgated by similarly empowered agencies in other states to promote uniformity of application of Sections 1 to 9 of this Act and make the emergency response systems in the various states reasonably compatible.

SECTION 8. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

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

SECTION 9. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall be known as the Good Samaritan Act of 2007.

Section 10. KRS 311.560 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.
- (2) The provisions of subsection (1) of this section shall not apply to:
 - (a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of

the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

- (b) 1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or
- 2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;
- (c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board. A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620;~~or~~
- (d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician; *or*
- (e) ***Volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 11. KRS 312.018 is amended to read as follows:

- (1) No person shall engage or attempt to engage in the practice of chiropractic or hold himself out to be a doctor of chiropractic in Kentucky unless licensed in accordance with the provisions of this chapter.
- (2) ***The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 12. KRS 313.030 is amended to read as follows:

~~(1)~~ Nothing in this chapter shall ***prohibit***; ~~prevent~~

- (1) (a) Students from performing dental operations under the supervision of competent instructors within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize the students of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. No fee shall be accepted by the student beyond the expenses provided by the stipend.
- (b) ~~(2)~~ Students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.
- (2) ***Volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 13. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit the following:
 - (a) The practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board;

- (b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;
 - (c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties;~~{or}~~
 - (d) The practice of any currently licensed nurse of another state who is in this state on a nonroutine basis to:
 - 1. Provide care to a patient being transported into, out of, or through this state;
 - 2. Provide nursing consulting services; or
 - 3. Present a continuing nursing education program; *or*
 - (e) ***Notwithstanding the provisions of paragraph (a) of this subsection, the practice of volunteer health practitioners under Sections 1 to 9 of this Act.***
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
 - (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
 - (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.
 - (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

Section 14. KRS 314A.105 is amended to read as follows:

- (1) This chapter does not prohibit:
 - (a) The performance of respiratory care which is an integral part of the program of study by students enrolled in an accredited program;
 - (b) Self-care by the patient nor the gratuitous care by a friend or member of the family who does not represent or hold himself out to be a respiratory care practitioner;
 - (c) Respiratory care services provided in the case of an emergency;
 - (d) Persons from engaging in cardiopulmonary research;~~{and}~~
 - (e) The performance of respiratory care by trained paramedical personnel; *and*
 - (f) ***Volunteer health practitioners providing services under Sections 1 to 9 of this Act.***
- (2) Nothing in this section shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their license.

Section 15. KRS 315.020 is amended to read as follows:

- (1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in charge of his pharmacy or shall permit any person to compound or dispense prescription drugs, medicines, or pharmaceuticals in his place of business except in the presence and under the immediate supervision of a pharmacist.
- (2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a pharmacist in charge of his place of business or shall permit any person to compound prescription drugs, medicines, or pharmaceuticals in his place of business, except as provided by the board through the promulgation of administrative regulations pursuant to KRS Chapter 13A.
- (3) Except as provided in subsection (4) of this section, no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315.

- (4) The provisions of subsection (3) of this section shall not apply to:
- (a) Pharmacist interns performing professional practice activities under the immediate supervision of a licensed pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;
 - (b) Pharmacist interns and pharmacy technicians performing specifically identified pharmacy practice activities while under the supervision of a pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;~~{or}~~
 - (c) Other licensed health care professionals practicing within the statutory scope of their professional practices; *or*
 - (d) ***Volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 16. KRS 319.005 is amended to read as follows:

- (1) No person shall engage in the practice of psychology as defined in KRS 319.010 or hold himself or herself out by any title or description of services which incorporates the words "psychological," "psychologist," or "psychology", unless licensed by the board. No person shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he or she is licensed, unless he or she holds a valid license issued by the board.
- (2) ***The provisions of subsection (1) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 17. KRS 327.020 is amended to read as follows:

- (1) No person shall practice or hold himself out as being able to practice physical therapy in any manner whatsoever unless he meets the educational requirements of this chapter, is licensed in accordance with the provisions of this chapter, he is in good standing with the board and his license is not suspended or revoked. Provided, however, that nothing contained in this chapter shall prohibit any person licensed in this state under any other law from engaging in the practice for which such person is duly licensed. Nothing contained in this chapter shall prohibit routine and restorative services performed by personnel employed by hospitals, physicians or licensed health care facilities as relates to physical therapists. This chapter does not preclude certified occupational therapists, respiratory technicians or respiratory therapists from practicing as defined in the United States Department of Health, Education and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel." Provided further that persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in such employment.
- (2) A licensed physical therapist may hold himself out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following his name, in connection with his profession.
- (3) It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with his or its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T." or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.
- (4) ***The provisions of subsection (1) and (3) of this section shall not apply to volunteer health practitioners providing services under Sections 1 to 9 of this Act.***

Section 18. KRS 335.010 is amended to read as follows:

- (1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.
- (2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

- (3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.
- (4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.
- (5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, children's homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those engaged as employees of such entities in the practice of social work or applied social counseling.
- (6) ***Nothing contained in KRS 335.010 to 335.160 and 335.990 shall prohibit volunteer health practitioners from providing services under Sections 1 to 9 of this Act.***

Section 19. KRS 321.200 is amended to read as follows:

- (1) No provision of this chapter shall be construed to prohibit any of the following:
 - (a) Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice;
 - (b) The owner of any animal or animals and the owner's full-time, or part-time, regular employees from caring for and treating, including administering drugs to, any animals belonging to the owner. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;
 - (c) Any person from castrating food animals and dehorning cattle, as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs.
 - (d) Any student enrolled in any approved veterinary school or college from working under the direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth and whose compensation is paid solely by the licensed veterinarian;
 - (e) Nonlicensed graduate veterinarians in the United States Armed Services or employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, from meeting licensed veterinarians of this Commonwealth in consultation;
 - (f) A trainer, sales agent, or herdsman from caring for animals, provided there is a veterinary-client-patient relationship, as defined in KRS 321.185;
 - (g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs;~~[-or-]~~
 - (h) Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding July 14, 1992, from performing embryo transfers; ***or***
 - (i) ***Volunteer health practitioners providing services under Sections 1 to 9 of this Act.***
- (2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist.

Section 20. KRS 321.441 is amended to read as follows:

- (1) An applicant for registration as a veterinary technologist shall be a graduate of an accredited program of veterinary technology approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technician shall possess an associate degree related to veterinary sciences, or its equivalent, approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technologist or veterinary technician shall pass a written and practical examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice.
- (2) Registration issued to a veterinary technologist or veterinary technician shall not be active until the veterinary technologist or veterinary technician is employed and is under the direct supervision of a veterinarian licensed in this Commonwealth. A veterinary technologist or veterinary technician's registration is considered to be inactive until registration is activated by returning a renewal application signed by the supervising veterinarian and the application is approved by the board. Each veterinary technologist or veterinary technician registered by the board shall pay an annual fee as prescribed by the board. Each veterinary technologist or veterinary technician registered by the board shall attend annual continuing education hours as required by the board to renew the registration. Failure to renew shall result in the termination of registration. If a hearing is requested upon the rejection of an application, or upon the termination of registration, a hearing shall be conducted in accordance with the provision of KRS 321.360.
- (3) The services of a veterinary technologist or veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A veterinary technologist or veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the veterinary technologist or veterinary technician is employed. A veterinary technologist or veterinary technician shall not participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is on the premises. A veterinary technologist or veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A veterinary technologist or veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery.
- (4) A veterinarian shall utilize the services of a veterinary technologist or veterinary technician in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary technologist or veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.351.
- (5) *Nothing in this section shall prohibit volunteer health practitioners from providing services under Sections 1 to 9 of this Act.*

Approved March 23, 2007.