

HOUSE BILL NO. 114

INTRODUCED BY T. HENRY

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR RECOGNITION OF LICENSURE AND FOR REGISTRATION OF OUT-OF-STATE VOLUNTEER PROFESSIONALS WHEN A DISASTER OR EMERGENCY IS IN EFFECT; ESTABLISHING ADMINISTRATIVE DISCIPLINARY SANCTIONS FOR VOLUNTEER PROFESSIONALS; PROVIDING RULEMAKING AUTHORITY; DEFINING "VOLUNTEER PROFESSIONAL"; PROVIDING IMMUNITY FOR THE ACTIONS OF VOLUNTEER PROFESSIONALS; AND AMENDING SECTIONS 10-3-103 AND 10-3-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Interstate licensure recognition -- volunteer professionals. (1) (a)

Subject to subsection (2), whenever a state of emergency or disaster is in effect, a volunteer professional who possesses an active, unrestricted license in another state may practice in Montana to the extent authorized by law as if the person had been licensed in Montana.

(b) A volunteer professional shall adhere to the scope and standards of practice set forth in licensing provisions, practice acts, or other laws or policies of Montana.

(2) (a) Prior to providing services in Montana, a volunteer professional who is licensed for professional services in another state shall register with the appropriate licensing agency in the state of Montana. The licensing agency shall verify the current licensure of the volunteer professional in the other state or states prior to registering the licensee.

(b) Based on available funding, the licensing agency may request and accept funds for the purpose of implementing the provisions of subsection (2)(a).

NEW SECTION. Section 2. Administrative disciplinary sanctions. (1) A licensing board or a licensing program in Montana:

(a) may impose administrative sanctions upon a volunteer professional for unprofessional conduct in response to an emergency or disaster that occurs in Montana; and

(b) shall report any administrative sanctions imposed upon a volunteer professional licensed in another

state to the appropriate licensing board or disciplinary authority in any other state in which the practitioner is known to be licensed.

(2) In determining whether to impose administrative sanctions under subsection (1), a licensing board or other disciplinary authority in Montana shall consider any exigent circumstances in which the conduct took place in light of the emergency or disaster.

NEW SECTION. **Section 3. Rulemaking authority.** The department of labor and industry may adopt rules necessary to implement [sections 1 and 2] to recognize and register out-of-state volunteer professionals.

Section 4. Section 10-3-103, MCA, is amended to read:

"10-3-103. Definitions. As used in parts 1 through 4 of this chapter, the following definitions apply:

(1) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency services.

(2) "Department" means the department of military affairs.

(3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation byproducts or other hazardous materials, outbreak of disease, bioterrorism, or incidents involving weapons of mass destruction.

(4) "Disaster and emergency services" means the preparation for and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.

(5) "Division" means the division of disaster and emergency services of the department.

(6) "Emergency" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize.

(7) (a) "Incident" means an event or occurrence, caused by either an individual or by natural phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent threat of an emergency.

(b) The term does not include a state of emergency or disaster declared by the governor pursuant to 10-3-302 or 10-3-303.

(8) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

(9) "Principal executive officer" means the mayor, presiding officer of the county commissioners, or other chief executive officer of a political subdivision.

(10) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings.

(11) "Volunteer professional" means an individual with an active, unrestricted license to practice a profession under the provisions of Title 37, Title 50, or the laws of another state."

Section 5. Section 10-3-111, MCA, is amended to read:

"10-3-111. Personnel immune from liability. (1) The state, a political subdivision of the state, or the agents or representatives of the state or a political subdivision of the state are not liable for personal injury or property damage sustained by a person appointed or acting as a volunteer civilian defense worker, a volunteer professional, or a member of an agency engaged in civilian defense activity during an incident, disaster, or emergency. This section does not affect the right of a person to receive benefits or compensation to which the person might otherwise be entitled under the workers' compensation law or a pension law or an act of congress.

(2) The following individuals or entities are not liable for the death or injury of individuals or for damage to property as a result of an act or omission arising out of activities undertaken in response to an incident, disaster, or emergency and while complying with or reasonably attempting to comply with parts 1 through 4 and 12 of this chapter or [sections 1 through 3] or an order or rule promulgated under the provisions of parts 1 through 4 and 12 of this chapter or [sections 1 through 3]:

(a) the state or a political subdivision of the state or;

(b) except in cases of willful misconduct, gross negligence, or bad faith;

(i) the employees, agents, or representatives of the state or a political subdivision of the state; or

(ii) a volunteer or auxiliary civilian defense worker, or a member of an agency engaged in civilian defense activity, a volunteer professional, during an incident, disaster, or emergency or the owners of facilities used for civil defense shelters, pursuant to a fallout shelter license or privilege agreement and while complying with or reasonably attempting to comply with parts 1 through 4 or 12 of this chapter or an order or rule promulgated under the provisions of parts 1 through 4 or 12 of this chapter or pursuant to an ordinance relating to blackout or other

precautionary measures enacted by a political subdivision of the state, ~~are not liable for the death of or injury to persons or for damage to property as a result of any activity specified in this subsection.~~"

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 10, chapter 3, part 1, and the provisions of Title 10, chapter 3, part 1, apply to [sections 1 through 3].

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