

FIRST REGULAR SESSION

HOUSE BILL NO. 788

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (155) (Sponsor), RUESTMAN, WETER, THRELKELD, MUSCHANY, SCHAD, SUTHERLAND, WILSON (130), CUNNINGHAM (145), SANDER, SATER, LOEHNER, SELF, HUNTER, LEMBKE, RICHARD, LIPKE, MOORE, NIEVES, HOBBS, KINGERY, MAY, SCHOELLER, DAY, TILLEY, DIXON, WILSON (119), WALLACE, JONES (117), NANCE, DETHROW, BEARDEN, DEMPSEY, RUZICKA, MUNZLINGER, GRISAMORE, PARSON AND COOPER (120) (Co-sponsors).

Read 1st time February 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1823L.011

AN ACT

To repeal section 44.100, RSMo, and section 44.045 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58, ninety-third general assembly, first regular session, and section 44.045 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344, ninety-third general assembly, first regular session, and to enact in lieu thereof four new sections relating to public health emergency preparedness.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 44.100, RSMo, and section 44.045 as enacted by conference
2 committee substitute for senate substitute for senate committee substitute for house committee
3 substitute for house bill no. 58, ninety-third general assembly, first regular session, and section
4 44.045 as enacted by conference committee substitute for house committee substitute for senate
5 committee substitute for senate bills nos. 420 & 344, ninety-third general assembly, first regular
6 session are repealed and four new sections enacted in lieu thereof, to be known as sections
7 44.045, 44.048, 44.100, and 44.105, to read as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

44.045. 1. Subject to approval by the state emergency management agency during an emergency declared by the governor or general assembly, any health care professional, **as defined in section 191.650, RSMo, who is licensed, registered, or certified in this state or any state who volunteers to be so deployed** may be deployed to provide care as necessitated by the emergency, including care necessitated by mutual aid agreements between political subdivisions and other public and private entities under section 44.090. **During an emergency, deployed health care professionals shall not be liable for any civil damages for acts or omissions, or the failure to exercise the skill and learning of an ordinary careful health care provider in similar circumstances, other than damages due to willful or wanton acts or omissions in rendering such care.**

2. In a declared state of emergency, the department of health and senior services and the division of professional registration within the department of [economic development] **insurance, financial institutions and professional registration** may release otherwise confidential contact and licensure, registration, or certification information relating to health care professionals to state, local, and private agencies to facilitate deployment.

[44.045. 1. Subject to approval by the state emergency management agency during an emergency declared by the governor or state legislature, any health care professional licensed, registered, or certified in this state who volunteers to be so deployed may be deployed to provide care as necessitated by the emergency.

2. In a declared state of emergency, the department of health and senior services or the division of professional registration within the department of economic development may release otherwise confidential contact and licensure, registration, or certification information relating to health care professionals to state, local, and private agencies to facilitate deployment.]

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44.048. 1. For purposes of this section, the following terms mean:

(1) "Department", the department of health and senior services;

(2) "Emergency plan", any plan for managing an emergency threatening public health developed by the director of the department or a local public health agency, or by one or more hospitals, clinics, nursing homes, or other health care facilities or providers and approved by the department or local public health agency in consultation with emergency management officials or any provision for assistance by out-of-state responders under interstate or international compacts, including but not limited to the Emergency Management Assistance Compact;

(3) "Responder", any person or organization, whether paid or volunteer, that provides health care or other health-related services in an emergency, including but not limited to physicians, physician assistants, registered and other nurses, certified nursing

13 **assistants, or other staff within a health care provider organization, pharmacists,**
14 **chiropractors, dentists, emergency medical technicians, members of a specialized medical**
15 **response unit, laboratory technicians, morticians, mental health professionals, hospitals,**
16 **nursing and boarding care facilities, home health agencies, other long-term care providers,**
17 **medical and dental clinics, medical laboratories, and ambulance service personnel,**
18 **dispatch services, and persons not registered as emergency medical technicians but who**
19 **are affiliated with a medical response unit and dispatched to the scene of an emergency or**
20 **licensed ambulance services.**

21 **2. During a national security emergency or an emergency declared under section**
22 **44.010, the governor may issue an emergency executive order holding that the number of**
23 **seriously ill or injured persons exceeds the emergency hospital or medical transport**
24 **capacity of one or more hospitals and that care for such persons has to be given in**
25 **temporary care facilities.**

26 **3. During the effective period of the emergency executive order, a responder in any**
27 **impacted county or any responder treating a patient who has an injury or ailment related**
28 **to the emergency, acting consistent with emergency plans, is not liable for any civil**
29 **damages or administrative sanctions as a result of good faith acts or omissions by such**
30 **responder in rendering emergency care, advice, or assistance other than damages**
31 **occasioned by willful or wanton acts or omissions by such person in rendering the**
32 **emergency care.**

44.100. 1. The emergency powers of the governor shall be as follows:

2 (1) The provisions of this section shall be operative only during the existence of a state
3 of emergency (referred to in this section as "emergency"). The existence of an emergency may
4 be proclaimed by the governor or by resolution of the legislature, if the governor in his
5 proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of
6 major proportions has actually occurred within this state, and that the safety and welfare of the
7 inhabitants of this state require an invocation of the provisions of this section.

8 (2) Any emergency, whether proclaimed by the governor or by the legislature, shall
9 terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a
10 resolution terminating such emergency.

11 (3) During the period that the state of emergency exists or continues, the governor shall:

12 (a) Enforce and put into operation all plans, rules and regulations relating to disasters and
13 emergency management of resources adopted under this law and to assume direct operational
14 control of all emergency forces and volunteers in the state;

15 (b) Take action and give directions to state and local law enforcement officers and
16 agencies as may be reasonable and necessary for the purpose of securing compliance with the
17 provisions of this law and with the orders, rules and regulations made pursuant thereof;

18 (c) Seize, take or requisition to the extent necessary to bring about the most effective
19 protection of the public:

20 a. Any means of transportation, other than railroads and railroad equipment and fuel, and
21 all fuel necessary for the propulsion thereof;

22 b. Any communication system or part thereof necessary to the prompt and efficient
23 functioning of the emergency management of the state;

24 c. All stocks of fuel;

25 d. Facilities for housing, feeding and hospitalization of persons, including buildings and
26 plants;

27 (d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on
28 shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel,
29 clothing and other commodities, materials, goods or services;

30 (e) Prescribe and direct activities in connection with but not limited to use, conservation,
31 salvage and prevention of waste of materials, services and facilities, including production,
32 transportation, power and communication facilities, training and supply of labor, utilization of
33 industrial plants, health and medical care, nutrition, housing, including the use of existing and
34 private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection
35 and other essential civil needs;

36 (f) To use or distribute all or any of this property among the inhabitants of the state in
37 any area adversely affected by a natural or man-made disaster and to account to the state treasurer
38 for any funds received thereof;

39 (g) To waive or suspend the operation of any statutory requirement or administrative rule
40 regarding the licensing, certification or issuance of permits evidencing professional, mechanical
41 or other skills;

42 (h) **To waive or suspend the operation of any statutory requirement or**
43 **administrative rule prescribing procedures for conducting state business, where strict**
44 **compliance with such requirements and rules would prevent, hinder, or delay necessary**
45 **action by the department of health and senior services to respond to a declared emergency**
46 **or increase the health threat to the population;**

47 (i) In accordance with rules or regulations, to provide that all law enforcement
48 authorities and other emergency response workers and agencies of other states who may be
49 within this state at the request of the governor or pursuant to state or local mutual-aid agreements
50 or compacts shall have the same authority and possess the same powers, duties, rights, privileges

51 and immunities as are possessed by like law enforcement authorities and emergency response
52 workers and agencies of this state;

53 [(i)] (j) To perform and exercise such other functions, powers and duties as may be
54 necessary to promote and secure the safety and protection of the civilian population.

55 2. When any property is seized, taken or requisitioned under this section, the circuit court
56 of the county in which the property was taken may on the application of the owner thereof or on
57 the application of the governor in cases where numerous claims may be filed, appoint three
58 disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the
59 damages which the owners may have sustained by reason of the appropriation thereof. Upon the
60 application the amount due because of the seizure of property shall be determined in the manner
61 provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the
62 power of eminent domain.

**44.105. 1. In a declared state of emergency, the department of health and senior
2 services may suspend any provision of chapters 195 and 334, RSMo, pertaining to
3 dispensing medications by persons under the direct supervision of a physician. Persons
4 who dispense medications under this section shall be trained by the department of health
5 and senior services and shall dispense medications under the supervision of a licensed
6 health care provider according to policy regulations established by the department.**

7 **2. The department may develop effective citizen involvement to recruit, train, and
8 accept the services of volunteers to supplement the programs administered by the
9 department in dispensing medications to the population in the event of an emergency.**

10 **3. Volunteers recruited, trained, and accepted by the department shall comply with
11 applicable agency policies.**

12 **4. The department shall:**

13 **(1) Provide staff as deemed necessary for the effective management and
14 development of volunteer dispensing sites deployed in response to a governor-declared
15 emergency;**

16 **(2) Provide or assure access to professional staff as deemed necessary for the
17 effective training and oversight of volunteers;**

18 **(3) Develop and provide to all volunteers written rules governing the job
19 descriptions, recruitment, screening, training responsibility, utilization, and supervision
20 of volunteers; and**

21 **(4) Educate volunteers to ensure that they understand their duties and
22 responsibilities.**

23 **5. Volunteers shall be deemed unpaid employees and shall be accorded the
24 protection of the legal expense fund and other provisions of section 105.711, RSMo.**

25 **6. As used in this section, "volunteer" means any person who, of his or her own free**
26 **will, performs any assigned duties for the department of health and senior services with**
27 **no monetary or material compensation.**

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