

109TH CONGRESS
1ST SESSION

S. 1638

To provide for the establishment of programs and activities to assist in mobilizing an appropriate healthcare workforce in the event of a health emergency or natural disaster.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2005

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the establishment of programs and activities to assist in mobilizing an appropriate healthcare workforce in the event of a health emergency or natural disaster.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricane Katrina
5 Emergency Health Workforce Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CORPS.—The term “Corps” means the Na-
2 tional Emergency Health Professionals Volunteer
3 Corps established under section 3.

4 (2) FEMA.—The term “FEMA” means the
5 Federal Emergency Management Agency of the
6 Emergency Preparedness and Response Directorate,
7 Department of Homeland Security.

8 (3) HEALTH PROFESSIONAL.—The term
9 “health professional” means a physician, nurse,
10 mental health provider, paramedic, pharmacist, pub-
11 lic health practitioner, veterinarian, epidemiologist,
12 statistician, laboratorian, infectious disease spe-
13 cialist, and other individual provider of health-re-
14 lated services as designated by the Secretary.

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of Health and Human Services.

17 **SEC. 3. NATIONAL EMERGENCY HEALTH PROFESSIONALS**
18 **VOLUNTEER CORPS.**

19 (a) IN GENERAL.—Not later than 6 months after the
20 date of enactment of this Act, the Secretary shall establish
21 a National Emergency Health Professionals Volunteer
22 Corps to provide for an adequate supply of health profes-
23 sionals in the case of a Federal, State or local emergency.
24 The Corps shall be headed by a Director to be appointed
25 by the Secretary.

1 (b) DUTIES.—The Director of the Corps shall con-
2 duct the following activities:

3 (1) Analysis of need to determine the number
4 and types of Corps volunteers that are needed.

5 (2) Determination of minimum licensing or
6 credentialing standards for each type of Corps vol-
7 unteers.

8 (3) Recruitment and retention of health profes-
9 sionals.

10 (4) Development of the Corps volunteer certifi-
11 cation program in accordance with subsection (d).

12 (5) Development of training programs.

13 (6) Development of protocols for contact and
14 deployment of Corps volunteers.

15 (7) Coordination of Corps volunteers with Med-
16 ical Reserve Corps and other volunteer networks.

17 (c) COMPOSITION.—The Corps shall be composed of
18 health professionals who—

19 (1) have training and expertise in the areas of
20 medicine, nursing, mental health, public health,
21 pharmacy, dentistry, emergency medical services,
22 veterinary science, laboratory science, and other
23 areas as determined appropriate by the Director of
24 the Corps;

1 (2) have been certified in accordance with the
2 certification program developed under subsection
3 (b)(4);

4 (3) are geographically diverse in residence; and

5 (4) are willing to be deployed in case of emer-
6 gency.

7 (d) CERTIFICATION.—The Director of the Corps, in
8 collaboration with the Director of FEMA and the Admin-
9 istrator of the Health Resources and Services Administra-
10 tion, shall establish a program for the periodic certifi-
11 cation of health professionals who volunteer for the Corps
12 which shall include, with respect to the health professional
13 involved, an assessment of—

14 (1) the professional expertise and training of
15 the professional, including licensure and
16 credentialing as appropriate;

17 (2) the completion by the professional of the
18 training programs developed under subsection
19 (b)(5), as required by the Director; and

20 (3) the preparedness of the professional for
21 emergency response which may include written ex-
22 amination and hands-on skill assessment.

23 (e) DEPLOYMENT.—

24 (1) IN GENERAL.—During a Federal, State, or
25 local emergency (as designated by the Secretary or

1 the Secretary of Homeland Security), the Secretary,
2 in consultation with the Secretary of Homeland Se-
3 curity, shall have the authority to deploy members of
4 the Corps to areas of need, based on the medical ex-
5 pertise required.

6 (2) LIMITATION.—State and local officials shall
7 have no authority to deploy members of the Corps,
8 but may request the services of such members.

9 (f) COMPENSATION, EXPENSES, AND TRANSPOR-
10 TATION.—While engaged in performing duties as a mem-
11 ber of the Corps pursuant to an assignment by the Sec-
12 retary (including periods of travel to facilitate such assign-
13 ment), members of the Corps who are not otherwise em-
14 ployed by the Federal Government shall be—

15 (1) compensated for temporary or intermittent
16 services as experts or consultants as provided for
17 under section 3109 of title 5, United States Code;
18 and

19 (2) allowed travel or transportation expenses,
20 including per diem in lieu of subsistence, as provided
21 for under section 5703 of such title.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated such sums as may be nec-
24 essary to carry out this Act (and the amendments made
25 by this Act) for each of fiscal years 2006 through 2010.

1 **SEC. 4. HEALTH PROFESSIONAL DATABASE.**

2 (a) ESTABLISHMENT.—Not later than 12 months
3 after the date of enactment of this Act, the Director of
4 the Centers for Disease Control and Prevention (referred
5 to in this section as the “Director”), in collaboration with
6 the Administrator of the Health Resources and Services
7 Administration, State medical and nursing licensing
8 boards, medical and nursing professional societies, and
9 other relevant entities, shall establish a national database
10 of health professionals (including physicians, nurses, and
11 other health professionals determined appropriate by the
12 Director) to increase health preparedness for Federal
13 emergencies.

14 (b) REQUIREMENTS OF DATABASE.—The database
15 established under subsection (a) shall include—

16 (1) With respect to each health professional
17 listed in the database—

18 (A) the name and contact information of
19 the professional;

20 (B) the State or States in which the pro-
21 fessional is licensed or certified;

22 (C) the area or areas in which the profes-
23 sional has specialty or subspecialty training;
24 and

1 (D) a description of the emergency re-
 2 sponse training received by the professional;
 3 and

4 (2) the names of each members of the Corps,
 5 the Medical Reserve Corps, the National Disaster
 6 Medical System, the Commissioned Corps of the
 7 Public Health Services, and any other relevant fed-
 8 erally-sponsored or administered programs.

9 (c) ACCESSIBILITY.—The Director shall ensure that
 10 the database established under subsection (a) is electroni-
 11 cally accessible by State and local health departments. In
 12 the case of a disaster or other emergency that results in
 13 a loss of electrical power, the Director shall ensure that
 14 the affected State or locality has access to the database
 15 through other means.

16 (d) UPDATING OF INFORMATION.—The Director
 17 shall, on at least a biennial basis, provide for the updating
 18 of the information contained in the database.

19 **SEC. 5. PROTECTION OF HEALTH PROFESSIONAL VOLUN-**
 20 **TEERS.**

21 Section 4303(13) of title 38, United States Code, is
 22 amended by adding at the end the following: “Such term
 23 shall include physicians or other health professionals (as
 24 defined in section 2 of the Hurricane Katrina Emergency
 25 Health Workforce Act of 2005) who are providing medical

1 treatment or services related to a major disaster as de-
 2 clared by the President under the authority of the Robert
 3 T. Stafford Disaster Relief and Emergency Assistance Act
 4 (42 U.S.C. 5121 et seq.), including members of the Na-
 5 tional Emergency Health Professionals Volunteer Corps,
 6 health professionals who are activated by the Federal
 7 Emergency Management Agency, and other health profes-
 8 sionals who provide services on a volunteer basis in a for-
 9 mal capacity as determined by the Secretary of Health and
 10 Human Services or the Secretary of Homeland Security.
 11 The Secretary shall promulgate guidelines to implement
 12 the previous sentence.”.

13 **SEC. 6. PREPAREDNESS TRAINING REQUIREMENTS.**

14 (a) CHILDREN’S HOSPITALS THAT OPERATE GRAD-
 15 UATE MEDICAL EDUCATION PROGRAMS.—Section 340E
 16 of the Public Health Service Act (42 U.S.C. 256e) is
 17 amended by adding at the end the following:

18 “(h) REQUIREMENT TO PROVIDE DISASTER PRE-
 19 PAREDNESS TRAINING.—To be eligible to receive a pay-
 20 ment under this section, a children’s hospital shall provide
 21 disaster preparedness training as part of any approved
 22 graduate medical residency training program provided by
 23 the hospital.”.

24 (b) MEDICARE GRADUATE MEDICAL EDUCATION
 25 PROGRAMS.—

1 (1) IN GENERAL.—Section 1886(h) of the So-
2 cial Security Act (42 U.S.C. 1395ww(h)) is amended
3 by adding at the end the following:

4 “(8) REQUIREMENT FOR DISASTER PREPARED-
5 NESS TRAINING.—In order to be eligible to receive a
6 payment under this subsection, a hospital shall pro-
7 vide disaster preparedness training as part of any
8 approved medical residency training program pro-
9 vided by the hospital.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall take effect on January 1,
12 2007.

13 **SEC. 7. LIABILITY PROTECTIONS.**

14 Section 224 of the Public Health Service Act (42
15 U.S.C. 233) is amended by adding at the end the fol-
16 lowing:

17 “(q) VOLUNTEER SERVICES PROVIDED BY HEALTH
18 PROFESSIONALS DURING DISASTERS.—

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of law, for purposes of this section, a vol-
21 unteer health professional shall in providing a quali-
22 fying health service related to a major disaster as
23 declared by the President under the authority of the
24 Robert T. Stafford Disaster Relief and Emergency
25 Assistance Act (42 U.S.C. 5121 et seq.) shall be

1 deemed to be an employee of the Public Health
2 Service. The preceding sentence is subject to the
3 provisions of this subsection.

4 “(2) VOLUNTEER HEALTH PROFESSIONAL.—In
5 providing a qualifying health service to an indi-
6 vidual, a health professional shall for purposes of
7 this subsection be considered to a volunteer health
8 professional if the following conditions are met:

9 “(A) The service is provided to the indi-
10 vidual as a result of the occurrence of a major
11 disaster as declared by the President under the
12 authority of the Robert T. Stafford Disaster
13 Relief and Emergency Assistance Act.

14 “(B) The service is a qualifying health
15 service (as defined in paragraph (3)(B)).

16 “(C) Neither the health professional or any
17 institution receives any compensation for the
18 service from the individual or from any third-
19 party payor (including reimbursement under
20 any insurance policy or health plan, or under
21 any Federal or State health benefits program).
22 With respect to compliance with such condition,
23 the health professional may receive repayment
24 from a Federal or State agency for reasonable

1 expenses incurred by the health professional in
2 the provision of the service to the individual.

3 “(3) DEFINITIONS.—

4 “(A) HEALTH PROFESSIONAL.—In this
5 subsection, the term ‘health professional’ means
6 a physician, nurse, mental health provider,
7 pharmacist, paramedic, and other individual
8 provider as designated by the Secretary.

9 “(B) QUALIFYING HEALTH SERVICE.—In
10 this subsection, the term ‘qualifying health
11 service’ means any medical assistance provided
12 during, and as the result of the occupancy of,
13 a major disaster as declared by the President
14 under the authority of the Robert T. Stafford
15 Disaster Relief and Emergency Assistance Act.

16 “(4) APPLICATION OF PROVISIONS.—Subsection
17 (g) (other than paragraphs (3) through (5)) and
18 subsections (h), (i), and (l) shall apply to a volunteer
19 health professional for purposes of this subsection to
20 the same extent and in the same manner as such
21 subsections apply to an officer, governing board
22 member, employee, or contractor of an entity de-
23 scribed in subsection (g)(4), subject to paragraph
24 (5) and subject to the following:

1 “(A) The first sentence of paragraph (1)
2 applies in lieu of the first sentence of subsection
3 (g)(1)(A).

4 “(B) In the case of a health professional
5 who is determined by the Secretary pursuant to
6 subsection (g)(1)(E) to be a volunteer health
7 professional, this subsection applies to the
8 health professional (with respect to the institu-
9 tion or facility sponsoring the health profes-
10 sional for any cause of action arising from an
11 act or omission of the health professional occur-
12 ring on or after the date on which the Secretary
13 makes such determination and until the major
14 disaster involved has ended.

15 “(C) Subsection (g)(1)(F) applies to a
16 health professional for purposes of this sub-
17 section only to the extent that, in providing
18 health services to an individual, each of the con-
19 ditions specified in paragraph (2) is met.

20 “(5) AUTHORIZATION OF APPROPRIATIONS.—

21 “(A) IN GENERAL.—For purposes of mak-
22 ing payments for judgments against the United
23 States (together with related fees and expenses
24 of witnesses) pursuant to this section arising
25 from the acts or omissions of volunteer health

professionals, there is authorized such sums as may be necessary in each fiscal year.

“(B) FUND.—The Secretary shall establish a fund for purposes of this subsection. Each fiscal year amounts appropriated under subparagraph (A) shall be deposited in such fund.

“(C) ESTIMATES.—Not later than May 1 of each fiscal year, the Attorney General, in consultation with the Secretary, shall submit to the Congress a report providing an estimate of the amount of claims (together with related fees and expenses of witnesses) that, by reason of the acts or omissions of volunteer health professionals, will be paid pursuant to this subsection during the calendar year that begins in the following fiscal year. Subsection (k)(1)(B) applies to the estimate under the preceding sentence regarding volunteer health professionals to the same extent and in the same manner as such subsection applies to the estimate under such subsection regarding officers, governing board members, employees, and contractors of entities described in subsection (g)(4).

“(D) TRANSFERS.—Not later than December 31 of each fiscal year, the Secretary shall

1 transfer from the fund under subparagraph (B)
 2 to the appropriate accounts in the Treasury an
 3 amount equal to the estimate made under sub-
 4 paragraph (C) for the calendar year beginning
 5 in such fiscal year, subject to the extent of
 6 amounts in the fund.

7 “(6) REGULATIONS.—The Secretary may issue
 8 regulations for carrying out this subsection.”.

9 **SEC. 8. SUSPENSION OF STATE LICENSURE REQUIRE-**
 10 **MENTS.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
 12 sion of law, the Secretary shall have the authority to sus-
 13 pend the application of State health professional licensing
 14 and certification requirements with respect to health pro-
 15 fessionals that are operating in such State during a major
 16 disaster as declared by the President under the authority
 17 of the Robert T. Stafford Disaster Relief and Emergency
 18 Assistance Act (42 U.S.C. 5121 et seq.) pursuant to an
 19 assignment or request for services from the Secretary, the
 20 Director of FEMA, or the Director of the Corps. This sub-
 21 section shall only be applicable with respect to health pro-
 22 fessionals who are licensed or certified in a State other
 23 than the State in which the disaster is occurring.

24 (b) LIMITATION.—Subsection (a) shall not apply in
 25 the case of health professionals who have had their license

1 or certification suspended or revoked, or who are the sub-
2 ject of a disciplinary action at the time of the application
3 of such subsection.

4 **SEC. 9. GENERAL WAIVER AUTHORITY.**

5 Notwithstanding any other provision of law, the Sec-
6 retary and the Secretary of Homeland Security shall have
7 the authority to waive any requirement of Federal law ap-
8 plicable to health professions if such requirement would
9 limit the ability of health professionals to provide volun-
10 teer medical services related to a major disaster as de-
11 clared by the President under the authority of the Robert
12 T. Stafford Disaster Relief and Emergency Assistance Act
13 (42 U.S.C. 5121 et seq.).

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