

This Document can be made available
in alternative formats upon request

State of Minnesota

Printed
Page No. **424**

HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3654

March 3, 2008

Authored by Winkler and Kalin

The bill was read for the first time and referred to the Committee on Health and Human Services

March 17, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to health; creating the Minnesota Responds Medical Reserve Corps;
1.3 permitting volunteer health practitioners during an emergency declaration;
1.4 providing volunteer protections; amending Minnesota Statutes 2006, sections
1.5 12.22, subdivision 2a; 145A.04, by adding subdivisions; 145A.06, by adding
1.6 subdivisions; 176.011, subdivision 9; proposing coding for new law in Minnesota
1.7 Statutes, chapter 192.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2006, section 12.22, subdivision 2a, is amended to read:

1.10 Subd. 2a. **Volunteer protections.** (a) Individuals who volunteer to assist a local
1.11 political subdivision during an emergency or disaster, who register with that subdivision,
1.12 and who are under the direction and control of that subdivision are considered an
1.13 employee of that subdivision for purposes of workers' compensation and tort claim
1.14 defense and indemnification.

1.15 (b) Individuals who volunteer to assist the state during an emergency or disaster,
1.16 who register with a state agency, and who are under the direction and control of the state
1.17 agency are considered an employee of the state for purposes of workers' compensation
1.18 and tort claim defense and indemnification.

1.19 (c) Notwithstanding qualification for volunteer protection under paragraph (a) or
1.20 (b), a Minnesota Responds Medical Reserve Corps volunteer under sections 145A.04 to
1.21 145A.06, responding at the request of the commissioner of health, must receive state
1.22 workers' compensation benefits and tort claim defense and indemnification as provided in
1.23 section 145A.06, subdivision 7.

2.1 Sec. 2. Minnesota Statutes 2006, section 145A.04, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 6a. **Minnesota Responds Medical Reserve Corps; planning.** A board of
2.4 health receiving funding for emergency preparedness or pandemic influenza planning
2.5 from the state or from the United States Department of Health and Human Services shall
2.6 participate in planning for emergency use of volunteer health professionals through the
2.7 Minnesota Responds Medical Reserve Corps program of the Department of Health. A
2.8 board of health shall collaborate on volunteer planning with other public and private
2.9 partners, including but not limited to local or regional health care providers, emergency
2.10 medical services, hospitals, tribal governments, state and local emergency management,
2.11 and local disaster relief organizations.

2.12 Sec. 3. Minnesota Statutes 2006, section 145A.04, is amended by adding a subdivision
2.13 to read:

2.14 Subd. 6b. **Minnesota Responds Medical Reserve Corps; agreements.** A board
2.15 of health participating in the Minnesota Responds Medical Reserve Corps program may
2.16 enter into written mutual aid agreements for deployment of its paid employees and its
2.17 Minnesota Responds Medical Reserve Corps volunteers with other boards of health, other
2.18 political subdivisions within the state, or with tribal governments within the state. A board
2.19 of health may also enter into agreements with the Indian Health Services of the United
2.20 States Department of Health and Human Services, and with boards of health, political
2.21 subdivisions, and tribal governments in bordering states and Canadian provinces.

2.22 Sec. 4. Minnesota Statutes 2006, section 145A.04, is amended by adding a subdivision
2.23 to read:

2.24 Subd. 6c. **Minnesota Responds Medical Reserve Corps; when mobilized.** When
2.25 a board of health finds that the prevention, mitigation, response to, or recovery from an
2.26 actual or threatened public health event or emergency exceeds its local capacity, it shall use
2.27 available mutual aid agreements. If the event or emergency exceeds mutual aid capacities,
2.28 a board of health may request the commissioner of health to mobilize Minnesota Responds
2.29 Medical Reserve Corps volunteers from outside the jurisdiction of the board of health.

2.30 Sec. 5. Minnesota Statutes 2006, section 145A.06, is amended by adding a subdivision
2.31 to read:

2.32 Subd. 6. **Health volunteer program.** (a) The commissioner may accept grants from
2.33 the United States Department of Health and Human Services for the emergency system

3.1 for the advanced registration of volunteer health professionals (ESAR-VHP) established
3.2 under United States Code, title 42, section 247d-7b. The ESAR-VHP program as
3.3 implemented in Minnesota is known as the Minnesota Responds Medical Reserve Corps.

3.4 (b) The commissioner may maintain a registry of volunteers for the Minnesota
3.5 Responds Medical Reserve Corps and obtain data on volunteers relevant to possible
3.6 deployments within and outside the state. All state licensing and certifying boards
3.7 shall cooperate with the Minnesota Responds Medical Reserve Corps and shall verify
3.8 volunteers' information. The commissioner may also obtain information from other states
3.9 and national licensing or certifying boards for health practitioners.

3.10 (c) The commissioner may share volunteers' data, including any data classified as
3.11 private data, from the Minnesota Responds Medical Reserve Corps registry with boards of
3.12 health, the University of Minnesota's Academic Health Center or other public or private
3.13 emergency preparedness partners, or tribal governments operating Minnesota Responds
3.14 Medical Reserve Corps units as needed for credentialing, organizing, training, and
3.15 deploying volunteers. Upon request of another state participating in the ESAR-VHP or of a
3.16 Canadian government administering a similar health volunteer program, the commissioner
3.17 may also share the volunteers' data as needed for emergency preparedness and response.

3.18 Sec. 6. Minnesota Statutes 2006, section 145A.06, is amended by adding a subdivision
3.19 to read:

3.20 Subd. 7. **Requests to commissioner for health volunteers.** (a) When the
3.21 commissioner receives a request for health volunteers from:

3.22 (1) a local board of health according to section 145A.04, subdivision 6c;

3.23 (2) the University of Minnesota Academic Health Center;

3.24 (3) another state or a territory through the Interstate Emergency Management
3.25 Assistance Compact authorized under section 192.89;

3.26 (4) the federal government through ESAR-VHP or another similar program; or

3.27 (5) a tribal or Canadian government;

3.28 the commissioner shall determine if deployment of Minnesota Responds Medical Reserve
3.29 Corps volunteers from outside the requesting jurisdiction is in the public interest. If so,
3.30 the commissioner may ask for Minnesota Responds Medical Reserve Corps volunteers
3.31 to respond to the request.

3.32 (b) If the commissioner matches the request under paragraph (a) with Minnesota
3.33 Responds Medical Reserve Corps volunteers, the commissioner shall facilitate deployment
3.34 of the volunteers from the sending Minnesota Responds Medical Reserve Corps units to
3.35 the receiving jurisdiction. The commissioner shall track volunteer deployments and assist

4.1 sending and receiving jurisdictions in monitoring deployments, and shall coordinate
4.2 efforts with the division of homeland security and emergency management for out-of-state
4.3 deployments through the Interstate Emergency Management Assistance Compact or
4.4 other emergency management compacts.

4.5 (c) Where the commissioner has deployed Minnesota Responds Medical Reserve
4.6 Corps volunteers within or outside the state, the provisions of paragraphs (d) to (e) must
4.7 apply. Where Minnesota Responds Medical Reserve Corps volunteers were deployed
4.8 across jurisdictions by mutual aid or similar agreements prior to a commissioner's call,
4.9 the provisions of paragraphs (d) to (e) must apply retroactively to volunteers deployed
4.10 as of their initial deployment in response to the event or emergency that triggered a
4.11 subsequent commissioner's call.

4.12 (d)(1) A Minnesota Responds Medical Reserve Corps volunteer responding to a
4.13 request for assistance at the call of the commissioner must be deemed an employee of the
4.14 state for purposes of workers' compensation and tort claim defense and indemnification,
4.15 without regard to whether the volunteer's activity is under the direction and control of the
4.16 commissioner, the division of homeland security and emergency management, the sending
4.17 jurisdiction, the receiving jurisdiction, or of a hospital, alternate care site, or other health
4.18 care provider treating patients from the public health event or emergency.

4.19 (2) For purposes of calculating workers' compensation benefits under chapter
4.20 176, the daily wage must be the usual wage paid at the time of injury or death for
4.21 similar services performed by paid employees in the community where the volunteer
4.22 regularly resides, or the wage paid to the volunteer in the volunteer's regular employment,
4.23 whichever is greater.

4.24 (e) The Minnesota Responds Medical Reserve Corps volunteer must receive
4.25 reimbursement for travel and subsistence expenses during a deployment approved by the
4.26 commissioner under this subdivision according to reimbursement limits established for
4.27 paid state employees. Deployment begins when the volunteer leaves on the deployment
4.28 until the volunteer returns from the deployment, including all travel related to the
4.29 deployment. The Department of Health shall initially review and pay those expenses to
4.30 the volunteer. Except as otherwise provided by the Interstate Emergency Management
4.31 Assistance Compact in section 192.89 or agreements made thereunder, the department
4.32 shall bill the jurisdiction receiving assistance and that jurisdiction shall reimburse the
4.33 department for expenses of the volunteers.

4.34 (f) In the event Minnesota Responds Medical Reserve Corps volunteers are deployed
4.35 outside the state pursuant to the Interstate Emergency Management Assistance Compact,

5.1 the provisions of the Interstate Emergency Management Assistance Compact must control
5.2 over any inconsistent provisions in this section.

5.3 (g) When a Minnesota Responds Medical Reserve Corps volunteer makes a claim
5.4 for workers' compensation arising out of a deployment under this section or out of a
5.5 training exercise conducted by the commissioner, the volunteer's workers compensation
5.6 benefits must be determined under section 176.011, subdivision 9, clause (25), even if the
5.7 volunteer may also qualify under other clauses of section 176.011, subdivision 9.

5.8 Sec. 7. Minnesota Statutes 2006, section 145A.06, is amended by adding a subdivision
5.9 to read:

5.10 Subd. 8. **Volunteer health practitioners licensed in other states.** (a) While an
5.11 emergency declaration is in effect, a volunteer health practitioner who is (1) registered
5.12 with a registration system that complies with the emergency system for the advanced
5.13 registration of volunteer health professionals (ESAR-VHP) established under United
5.14 States Code, title 42, section 247d-7b; (2) licensed and in good standing in the state upon
5.15 which the practitioner's registration is based; and (3) requested for deployment by the
5.16 state's authorized representative under section 192.89, may practice in this state within
5.17 the scope of practice authorized in the licensing state and to the extent authorized by this
5.18 section as if the practitioner were licensed in this state.

5.19 (b) A volunteer health practitioner qualified under paragraph (a) is not entitled to
5.20 the liability protections of section 192.89, subdivision 6, if the practitioner is licensed in
5.21 more than one state and any license of the practitioner is suspended, revoked, or subject
5.22 to an agency order limiting or restricting practice privileges, or has been voluntarily
5.23 terminated under threat of sanction.

5.24 Sec. 8. Minnesota Statutes 2006, section 176.011, subdivision 9, is amended to read:

5.25 Subd. 9. **Employee.** "Employee" means any person who performs services for
5.26 another for hire including the following:

5.27 (1) an alien;

5.28 (2) a minor;

5.29 (3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and
5.30 peace officer while engaged in the enforcement of peace or in the pursuit or capture of a
5.31 person charged with or suspected of crime;

5.32 (4) a person requested or commanded to aid an officer in arresting or retaking a
5.33 person who has escaped from lawful custody, or in executing legal process, in which

6.1 cases, for purposes of calculating compensation under this chapter, the daily wage of the
6.2 person shall be the prevailing wage for similar services performed by paid employees;

6.3 (5) a county assessor;

6.4 (6) an elected or appointed official of the state, or of a county, city, town, school
6.5 district, or governmental subdivision in the state. An officer of a political subdivision
6.6 elected or appointed for a regular term of office, or to complete the unexpired portion of a
6.7 regular term, shall be included only after the governing body of the political subdivision
6.8 has adopted an ordinance or resolution to that effect;

6.9 (7) an executive officer of a corporation, except those executive officers excluded
6.10 by section 176.041;

6.11 (8) a voluntary uncompensated worker, other than an inmate, rendering services in
6.12 state institutions under the commissioners of human services and corrections similar to
6.13 those of officers and employees of the institutions, and whose services have been accepted
6.14 or contracted for by the commissioner of human services or corrections as authorized by
6.15 law. In the event of injury or death of the worker, the daily wage of the worker, for the
6.16 purpose of calculating compensation under this chapter, shall be the usual wage paid at
6.17 the time of the injury or death for similar services in institutions where the services are
6.18 performed by paid employees;

6.19 (9) a voluntary uncompensated worker engaged in emergency management as
6.20 defined in section 12.03, subdivision 4, who is:

6.21 (i) registered with the state or any political subdivision of it, according to the
6.22 procedures set forth in the state or political subdivision emergency operations plan; and

6.23 (ii) acting under the direction and control of, and within the scope of duties approved
6.24 by, the state or political subdivision.

6.25 The daily wage of the worker, for the purpose of calculating compensation under this
6.26 chapter, shall be the usual wage paid at the time of the injury or death for similar services
6.27 performed by paid employees;

6.28 (10) a voluntary uncompensated worker participating in a program established by a
6.29 local social services agency. For purposes of this clause, "local social services agency"
6.30 means any agency established under section 393.01. In the event of injury or death of the
6.31 worker, the wage of the worker, for the purpose of calculating compensation under this
6.32 chapter, shall be the usual wage paid in the county at the time of the injury or death for
6.33 similar services performed by paid employees working a normal day and week;

6.34 (11) a voluntary uncompensated worker accepted by the commissioner of natural
6.35 resources who is rendering services as a volunteer pursuant to section 84.089. The daily
6.36 wage of the worker for the purpose of calculating compensation under this chapter, shall

7.1 be the usual wage paid at the time of injury or death for similar services performed by
7.2 paid employees;

7.3 (12) a voluntary uncompensated worker in the building and construction industry
7.4 who renders services for joint labor-management nonprofit community service projects.
7.5 The daily wage of the worker for the purpose of calculating compensation under this
7.6 chapter shall be the usual wage paid at the time of injury or death for similar services
7.7 performed by paid employees;

7.8 (13) a member of the military forces, as defined in section 190.05, while in state
7.9 active service, as defined in section 190.05, subdivision 5a. The daily wage of the member
7.10 for the purpose of calculating compensation under this chapter shall be based on the
7.11 member's usual earnings in civil life. If there is no evidence of previous occupation or
7.12 earning, the trier of fact shall consider the member's earnings as a member of the military
7.13 forces;

7.14 (14) a voluntary uncompensated worker, accepted by the director of the Minnesota
7.15 Historical Society, rendering services as a volunteer, pursuant to chapter 138. The daily
7.16 wage of the worker, for the purposes of calculating compensation under this chapter,
7.17 shall be the usual wage paid at the time of injury or death for similar services performed
7.18 by paid employees;

7.19 (15) a voluntary uncompensated worker, other than a student, who renders services
7.20 at the Minnesota State Academy for the Deaf or the Minnesota State Academy for the
7.21 Blind, and whose services have been accepted or contracted for by the commissioner of
7.22 education, as authorized by law. In the event of injury or death of the worker, the daily
7.23 wage of the worker, for the purpose of calculating compensation under this chapter, shall
7.24 be the usual wage paid at the time of the injury or death for similar services performed in
7.25 institutions by paid employees;

7.26 (16) a voluntary uncompensated worker, other than a resident of the veterans home,
7.27 who renders services at a Minnesota veterans home, and whose services have been
7.28 accepted or contracted for by the commissioner of veterans affairs, as authorized by law.
7.29 In the event of injury or death of the worker, the daily wage of the worker, for the purpose
7.30 of calculating compensation under this chapter, shall be the usual wage paid at the time of
7.31 the injury or death for similar services performed in institutions by paid employees;

7.32 (17) a worker who renders in-home attendant care services to a physically disabled
7.33 person, and who is paid directly by the commissioner of human services for these services,
7.34 shall be an employee of the state within the meaning of this subdivision, but for no other
7.35 purpose;

8.1 (18) students enrolled in and regularly attending the Medical School of the
8.2 University of Minnesota in the graduate school program or the postgraduate program. The
8.3 students shall not be considered employees for any other purpose. In the event of the
8.4 student's injury or death, the weekly wage of the student for the purpose of calculating
8.5 compensation under this chapter, shall be the annualized educational stipend awarded to
8.6 the student, divided by 52 weeks. The institution in which the student is enrolled shall
8.7 be considered the "employer" for the limited purpose of determining responsibility for
8.8 paying benefits under this chapter;

8.9 (19) a faculty member of the University of Minnesota employed for an academic
8.10 year is also an employee for the period between that academic year and the succeeding
8.11 academic year if:

8.12 (a) the member has a contract or reasonable assurance of a contract from the
8.13 University of Minnesota for the succeeding academic year; and

8.14 (b) the personal injury for which compensation is sought arises out of and in the
8.15 course of activities related to the faculty member's employment by the University of
8.16 Minnesota;

8.17 (20) a worker who performs volunteer ambulance driver or attendant services is an
8.18 employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other
8.19 entity for which the worker performs the services. The daily wage of the worker for the
8.20 purpose of calculating compensation under this chapter shall be the usual wage paid at the
8.21 time of injury or death for similar services performed by paid employees;

8.22 (21) a voluntary uncompensated worker, accepted by the commissioner of
8.23 administration, rendering services as a volunteer at the Department of Administration. In
8.24 the event of injury or death of the worker, the daily wage of the worker, for the purpose of
8.25 calculating compensation under this chapter, shall be the usual wage paid at the time of the
8.26 injury or death for similar services performed in institutions by paid employees;

8.27 (22) a voluntary uncompensated worker rendering service directly to the Pollution
8.28 Control Agency. The daily wage of the worker for the purpose of calculating compensation
8.29 payable under this chapter is the usual going wage paid at the time of injury or death for
8.30 similar services if the services are performed by paid employees;

8.31 (23) a voluntary uncompensated worker while volunteering services as a first
8.32 responder or as a member of a law enforcement assistance organization while acting under
8.33 the supervision and authority of a political subdivision. The daily wage of the worker for
8.34 the purpose of calculating compensation payable under this chapter is the usual going
8.35 wage paid at the time of injury or death for similar services if the services are performed
8.36 by paid employees; ~~and~~

9.1 (24) a voluntary uncompensated member of the civil air patrol rendering service on
9.2 the request and under the authority of the state or any of its political subdivisions. The
9.3 daily wage of the member for the purposes of calculating compensation payable under this
9.4 chapter is the usual going wage paid at the time of injury or death for similar services if
9.5 the services are performed by paid employees; and

9.6 (25) a Minnesota Responds Medical Reserve Corps volunteer under sections
9.7 145A.04 to 145A.06, responding at the request of or engaged in training conducted by the
9.8 commissioner of health. The daily wage of the volunteer for the purposes of calculating
9.9 compensation payable under this chapter is established in section 145A.06. A person
9.10 who qualifies under this clause and who may also qualify under another clause of this
9.11 subdivision shall receive benefits according to this clause.

9.12 If it is difficult to determine the daily wage as provided in this subdivision, the trier
9.13 of fact may determine the wage upon which the compensation is payable.

9.14 **Sec. 9. [192.90] INTERSTATE ASSISTANCE BY MINNESOTA RESPONDS**
9.15 **MEDICAL RESERVE CORPS.**

9.16 Subdivision 1. **Status as officers or employees.** When another state or other
9.17 jurisdiction participating in the Interstate Emergency Management Assistance Compact
9.18 requests health assistance, this state's authorized representative under section 192.89,
9.19 subdivision 3, may request Minnesota Responds Medical Reserve Corps volunteers
9.20 through the commissioner of health. Minnesota Responds Medical Reserve Corps
9.21 volunteers approved by the commissioner of health as provided in section 145A.06 must
9.22 be considered "officers and employees" of this state eligible for deployment by the state's
9.23 authorized representative under section 192.89.

9.24 Subd. 2. **Workers' compensation benefits.** During deployments within the scope
9.25 of section 192.89, subdivision 1, a Minnesota Responds Medical Reserve Corps volunteer
9.26 suffering personal injury or death must receive workers' compensation as provided in
9.27 section 176.011, subdivision 9, clause (25).

9.28 Subd. 3. **Limitation.** Deployment as a Minnesota Responds Medical Reserve Corps
9.29 volunteer does not make the volunteer a state officer or employee for any purpose other
9.30 than those expressly stated in section 145A.06, 192.89, or 192.90.

9.31 **Sec. 10. EFFECTIVE DATE.**

9.32 This act is effective the day following final enactment.