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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/28/06  
**LAST UPDATED** 2-11-06     **HB** 40/aHLHRC/aHFI#1

**SPONSOR** Heaton

**SHORT TITLE** Health Volunteers Responding to Emergencies     **SB** \_\_\_\_\_

**ANALYST** Collard

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$0.1 Minimal Impact	Non-Recurring	Workers' Compensation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Workers' Compensation Administration (WCA)

### SUMMARY

#### Synopsis of HFI #1 Amendment

The first House Floor Amendment to House Bill 40, as amended by the House Labor and Human Resources Committee, strikes the word volunteer from the body of the bill.

### SIGNIFICANT ISSUES

WCA notes this amendment effectively avoids classifying these workers as volunteers whom, according to case law, have always been exempt from coverage under the Workers' Compensation Act.

#### Synopsis of HLHRC Amendment

The House Labor and Human Resources Committee amendment to House Bill 40 includes emergency disaster health professional volunteers under the definition of public employee for purposes of the Workers' Compensation Act. Such volunteers would be employees of DOH and the average weekly wage would be that of similarly situated workers.

## **SIGNIFICANT ISSUES**

WCA notes a statutory change is not necessary to achieve the intended coverage for emergency health professional workers. Even with the changes proposed in the amendment, the same result could be achieved administratively.

## **TECHNICAL ISSUES**

WCA suggests the word volunteer be stricken entirely from the amendments to avoid any implication of changing the definition of worker under the Workers' Compensation Act to include volunteers. On page 1, lines 11 and 12, on page 2, lines 2 and 3, and on page 3, line 21 insert "an unpaid health professional" should be substituted instead of "volunteer."

### Synopsis of Original Bill

House Bill 40 proposes that health professional volunteers deployed by DOH in response to a declared emergency or public health emergency, or in response to a request from another state under the Emergency Management Assistance Compact (EMAC), be considered public employees during the deployment for purposes of the Workers' Compensation Act. Benefits afforded under the Workers' Compensation Act for injury or death of a volunteer health professional during the deployment would be available to the volunteer health professional. The average weekly wage of a person in like employment would be used to calculate workers' compensation benefits. The health professional volunteer would not be considered an employee of DOH for purposes of calculating any fee under 52-5-19 NMSA 1978.

## **FISCAL IMPLICATIONS**

There is no appropriation associated with this bill; however, any claims would be paid out of the Workers' Compensation fund.

## **SIGNIFICANT ISSUES**

DOH supports House Bill 40. DOH indicates it and other health care institutions, such as hospitals, experience work force shortages on a daily basis. These circumstances are exacerbated during public health emergencies. In order to ensure access to emergency health care and public health services during natural or human-caused disasters, DOH and its health system partners must rely on the willingness of volunteers to perform vital public health and health services, including support services, to affected populations. DOH has created a volunteer health professional registry to assist the Department in identifying volunteer health professionals – physicians, nurses, emergency medical technicians, emergency department technicians, and other allied professionals – willing to be deployed as needed to health emergencies in New Mexico and other states affected by large-scale disasters. These volunteers make a heroic commitment to volunteer under austere and sometimes dangerous conditions, risking their lives and health to serve in a time of need. Injury and death benefits otherwise available to health professionals through their employers may not be available to those health professionals when they are deployed to provide health services in a declared emergency, leaving those volunteers potentially unprotected for injuries they may suffer while deployed. New Mexico law does not currently provide an effective mechanism for making sure injury and death benefits would be available to deployed volunteer health professionals, making it less likely that volunteers would respond to requests for assis-

tance from DOH during declared public emergencies and public health emergencies.

WCA indicates a statutory change is not necessary to achieve the intended coverage for emergency health professional workers. The same result could be achieved administratively.

### **PERFORMANCE IMPLICATIONS**

WCA indicates this amendment overrules case law holding that volunteers are not considered workers under the Workers' Compensation Act. See, Joyce v. Pecos Benedictine Monastery, 119 N.M. 764, 895 P.2d 286 (1995).

### **ADMINISTRATIVE IMPLICATIONS**

DOH notes it has developed a volunteer health professional registry to assist the Department in rapid deployment of public health and medical assistance for in-state and out-of-state declared emergencies. Because the registry is already in place, this bill would not result in any significant additional administrative work for DOH staff.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Health professional volunteers deployed by DOH to respond to a declared emergency or public health emergency in New Mexico, or to respond to a request from another state for assistance under the EMAC in the event of a large-scale disaster, may not be eligible for payment of injury or death benefits under the Workers' Compensation Act during their deployment, leaving open the possibility that those volunteers would be unprotected and uncompensated for injuries suffered during the deployment.

KBC/sb:mt