

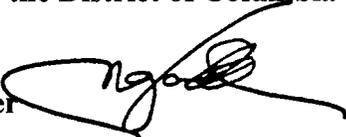
**Government of the District of Columbia
Office of the Chief Financial Officer**



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: February 19, 2010

SUBJECT: Fiscal Impact Statement: "Uniform Emergency Volunteer Health Practitioners Act of 2009"

REFERENCE: Bill 18-71, Draft Committee Print Shared with the OCFO on February 4, 2010

Conclusion

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan period to implement the provisions of the proposed legislation. The proposed legislation would marginally expand the population eligible for disability compensation benefits during declared emergencies, but would also significantly reduce the scope of the benefits provided to this new group, as well as to an existing subgroup of the eligible population. Thus, its implementation is expected to have a neutral effect on the Disability Compensation Fund ("Fund").

Background

The intent of the Uniform Emergency Volunteer Health Practitioners Act of 2009 ("UEVHPA") is to make it easier for volunteer health practitioners to provide medical services during a declared emergency, while at the same time providing the District with control over the volunteer health practitioners within its borders. The main provisions of UEVHPA are described below.

Section 2. Definitions. This section provides definitions for a number of key terms used throughout the proposed legislation, such as health services, host entity¹, scope of practice and volunteer health practitioner (VHP).²

Section 4. Regulation of services during an emergency. This provides the Mayor with the authority to regulate VHPs while an emergency declaration is in effect. It also requires that a host entity that uses VHPs to consult and coordinate its activities with the Mayor.

Section 5. Volunteer health practitioner registration system. This section defines what qualifies as a volunteer health practitioner registration system³; authorizes the Mayor or a host entity to confirm whether a VHP is registered in the system, licensed and in good standing; and allows a host entity the right not to use a registered VHP.

Section 6. Recognition of volunteer health practitioners licensed in other states. This allows a VHP the right to practice in the District while an emergency declaration is in effect if he or she is registered in a volunteer health practitioner system in another state and meets licensing requirements.

Section 8. Provision of volunteer health or veterinary services; administrative sanctions. This section provides that a VHP should only provide those services within his or her scope of practice; authorizes the Mayor or a host entity to restrict the services that a VHP may provide; and authorizes a licensing board in the District to impose administrative sanctions related to the conduct of health practitioners.

Section 11. Civil liability for volunteer health practitioners; vicarious liability. This removes liability for a VHP that provides services pursuant to the UEVHPA, a person that uses information provided by the registration system, and the District of Columbia. However, it also specifies circumstances under which the liability protection does not apply, such as willful misconduct and breach of contract.

Section 12. Workers' compensation coverage. This section provides that a VHP who is injured while providing health services in the District pursuant to the UEVHPA, or while traveling to or from the District to provide such services, and who is not covered by workers' compensation insurance, would be eligible for the District's workers' compensation program.⁴ Benefits, however, would be limited to only *medical benefits* provided under the disability compensation program to District Government employees, and would exclude any salary compensation payments or vocational rehabilitation services. (Note that in the District of Columbia workers'

¹ Defined by the legislation as an entity operating in the District which uses volunteer health practitioners to respond to an emergency.

² "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term includes a health practitioner employed by the federal government.

³ A volunteer health practitioner registration system can be operated by a disaster relief organization, a licensing board, a health facility or a government entity.

⁴ Notwithstanding Title XXIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Official Code § 1-623.01 *et seq.*).

compensation is referred to as disability compensation.⁵) Furthermore, if the VHP has a health benefits plan, medical benefits given by the District would be reduced by any primary medical benefits provided under that plan.

Financial Plan Impact

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. The proposed legislation would have a neutral effect on the Disability Compensation Fund ("Fund"), which is the source for disability compensation payments made to District employees.⁶ Currently, the Fund has a spending pressure and, thus, cannot accommodate the addition of coverage for any new populations without an equal amount of offsetting savings. The proposed legislation would abide by this constraint.

Under current law, VHPs who provide services during a declared emergency *to the District Government* are eligible for full disability compensation benefits, including medical benefits, lost wages and vocational rehabilitation, as long as the services provided are not being provided by a District employee.⁷ Also under current law, VHPs providing such services to a *non-governmental* entity during a declared emergency are not eligible for any disability compensation from the D.C. Government.

The proposed legislation would expand eligibility for disability compensation benefits to VHPs who provide services to non-governmental agencies during a declared emergency and who are not covered by a workers' compensation plan,⁸ but at the same time would limit the benefits provided to *all* VHPs, whether they report to the D.C. Government or to non-government entities, to *only medical benefits*.

Limiting disability compensation to only medical benefits would mean a significant decrease in disability compensation payments to volunteers during emergencies. It is estimated that 70 percent of all disability compensation payments made are for lost wages. Thus as long as the value of claims from VHPs reporting to non-government institutions do not outweigh the value of claims from VHPs reporting to the D.C. Government by more than seven to three, the proposed legislation would not increase the cost pressure on the Fund.

⁵ See D.C. Official Code § 1-623.01 *et seq.*

⁶ Except for employees of Fire and Emergency Medical Services and the Metropolitan Police Department.

⁷ Current law is actually broader: it does not limit the volunteers to only VHPs and it does not require the services be provided during a declared emergency. It considers "any individual rendering personal service to the District of Columbia government similar to the service of a civil officer or employee of the District of Columbia, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or authorizes payment of travel or other expenses of the individual" as an employee and thus eligible for disability compensation (see D.C. Official Code § 1-623.01). However, for a *volunteer* to qualify for such benefits, current law also requires that "no volunteer person shall be used to fill any position or perform any service which is currently being performed by an employee of the District of Columbia government." (D.C. Official Code § 1-319.01.) It is reasonable to assume that during an emergency, any volunteers utilized by the District of Columbia government would necessarily be providing services that government employees are not able to provide.

⁸ VHPs include employees of the federal government and practitioners who receive compensation pursuant to a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in the District while an emergency declaration is in effect

It is important to note that a more precise estimate is not possible given the unknowns, such as when an emergency will occur, type of emergency (terrorist attack, natural disaster), extent of devastation caused, number of VHPs that would be utilized, number that would be injured, who would be injured (those working for the District vs. for a non-governmental entity) and extent of injuries. In fact, even an actuarial model is not capable of providing an estimation given the lack of past occurrences.