

New legislation could smooth the way for volunteer nurses from across the U.S. to respond to natural and man-made disasters

By Kate Brewer, BA, BSN, RN

Hurricane Katrina blew through the U.S. in a matter of days, but the lessons learned from disastrous response efforts after the storm have taken years to fully understand. One of those lessons was how to handle the incredible numbers of volunteer healthcare providers, including nurses that flock to affected areas to provide care.

After the 2005 storms, physicians, nurses, pharmacists, EMTs and other medical personnel came from around the country to help in the Gulf States, but found mounds of red tape preventing them from getting right to work. One issue was states in need of help had a difficult time verifying the licensure and good standing of the providers who arrived, and could not legally let them practice within their state without that verification. Also, concerns about liability, workers' compensation and scope of practice of the providers delayed their deployment and hampered the ability to put them to work.

Proposed Legislation

To overcome these issues, the National Conference of Commissioners on Uniform State Laws (NCCUSL), a state-supported conference of law professionals that drafts legislation, has proposed the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA).

The act has several major policy objectives, but mainly seeks to provide a standard procedure in every state for verifying the licensure of providers, and guidance on how to handle the scope of practice and liability concerns that can vary from state to state. It also stipulates emergency providers must be registered in a volunteer health practitioner registration system, such as the American Red Cross, the Medical Reserve Corps or a state licensing board database, in which their license information is verified and maintained.

"All 50 states currently have the ability to recognize out-of-state licenses through a variety of means, like an executive order for example; the difficulty is they all do it differently. That was very evident in the Gulf Coast hurricanes of 2005," said Raymond P. Pepe, JD, chairman of the NCCUSL Drafting Committee on UEVHPA. "This act establishes a uniform process for recognizing licenses, to extend liability protection and extend workers' compensation protection [to volunteers]."

The body of UEVHPA deals with those issues, and builds on the Emergency Management Assistance Compact (EMAC) — a federal law that allows for deployed health practitioners employed by state or local governments to work during an emergency in states where they do not have licenses. According to Pepe, however, EMAC did not do enough to cover interstate practice issues, scopes of practice, and it is not clear if its protections would apply to responders from non-profit groups.

"The federal law just isn't a good fit," he said. "At the very least what [UEVHPA] attempts to do is provide the equivalent protection under the federal law" but give more guidance on applying state laws. The act should have a positive effect for nurses.

"We are very pleased with [the act]," said Janet Haebler, MSN, RN, associate director of state government affairs with the American Nurses Association (ANA). "We've been involved in the discussion since the inception of the model act, and recognize the need for activating volunteer professionals during an emergency. What's especially strong in this act is the initial provision that provides protection from civil liabilities and workers' compensation."

Licensure

Emergency response volunteer practitioners come from different states, and their rights and responsibilities, scope of practice and training can vary greatly. For example, a nurse practitioner who is licensed in a state that grants prescribing privileges may respond to an emergency in a state in which he or she is not licensed, and that does not grant the same privileges.

Under UEVHPA, volunteer practitioners deployed to a state declared a disaster automatically would be considered licensed in that state through the duration of the emergency. Providers must limit their activities during a response to what they are permitted to do in their states of licensure, but they must follow the applicable scope of practice for the "host" state of deployment.

In other words, the act licenses out-of-state practitioners, but does not grant greater privileges than what the practitioner is granted in his or her home state. In the example of the nurse practitioner, if his or her home state does not grant prescribing privileges, and the practitioner is deployed to a state that does, he or she must follow the scope of practice of the home state, and cannot prescribe. Conversely, a practitioner that does have prescribing rights at home cannot prescribe if deployed to a state that does not grant those privileges.

Expanding Privileges if Necessary

Pepe said, however, that in certain dire situations, executive orders or other means exist to provide temporary expansion of privileges if the current laws are found to hamper response efforts. That may mean extending prescribing privileges to nurse practitioners, or other rights to nurses they do not otherwise have in normal working situations.

The requisite piece of UEVHPA is that all responding volunteer practitioners must be registered with a public or private agency that can verify their licenses and credentials beforehand.

Systems could include the Medical Reserve Corps, the American Red Cross, state or federal employees, or licensed practitioners registered with their state licensing boards as emergency volunteers. These state databases were established as part of the Emergency Systems for Advance Registration of Volunteer Health Professionals by the Health Resources and Services Administration in the wake of 9/11.

"As long as you are registered in a system where you live, and as long as its one of the qualified systems that can respond to a host state in an emergency [the law applies]," Pepe said. "It facilitates getting people in to respond, but it still allows a host state to say 'We don't want any volunteers.'"

Pepe said requiring volunteers to be pre-registered helped to clarify licensing and credentialing issues, but also discourages "spontaneous volunteers" from showing up at a disaster site.

Liability

Then there is the issue of liability. Nurses responding in a disaster often find themselves working with altered standards of care, and may be performing tasks that aren't in their normal job duties. UEVHPA seeks to give some protection to those practitioners responding in those types of situations.

The act gives guidance on when a practitioner should be investigated for potential misconduct, and who conducts the investigation.

UEVHPA authorizes state licensing boards to impose sanctions on a volunteer practitioner if possible practice violations are committed. However, Pepe pointed out that under the act, practitioners should only be investigated and disciplined if they knowingly acted inappropriately, acknowledging that volunteer practitioners work under stressful situations and altered standards of care.

"It's not a type of insurance coverage," he said, "but it gives a little more guidance when investigating a suspected violation."

As of Dec. 14, three states — Tennessee, Colorado and Kentucky — have enacted UEVHPA. It is also active in California, Oregon, Pennsylvania and the U.S. Virgin Islands. It was introduced in Mississippi, but died in committee, and in Maine, but was withdrawn.

According to Haebler, ANA's efforts will involve activating coalitions to help support the legislative process in each state. The coalition membership includes the American Red Cross and members of the NCCUSL. But, she is optimistic it will meet little resistance.

"[The act] is really well written and prepared," she said. "I can't imagine states having too many concerns."

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