

~~DRAFT~~

~~FOR DISCUSSION ONLY~~

UNIFORM EMERGENCY VOLUNTEER HEALTHCARE SERVICES ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For ~~the~~ June ~~26,~~ 2006 Drafting Committee ~~Meeting~~Teleconference

WITH PREFATORY NOTE AND WITHOUT COMMENTS

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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~~May 31~~ June 16, 2006

**DRAFTING COMMITTEE ON UNIFORM EMERGENCY VOLUNTEER
HEALTHCARE SERVICES ACT**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in ~~revising~~drafting this Act consists of the following individuals:

RAYMOND P. PEPE, 17 N. Second St., 18th Floor, Harrisburg, PA 17101-1507, *Chair*

ROBERT G. BAILEY, University of Missouri-Columbia, 217 Hulston Hall, Columbia, MO 65211

STEPHEN C. CAWOOD, 108 1/2 Kentucky Ave., P.O. Drawer 128, Pineville, KY 40977-0128

KENNETH W. ELLIOTT, City Place Building, 204 N. Robinson Ave., Suite 2200, Oklahoma City, OK 73102

THOMAS T. GRIMSHAW, 1700 Lincoln St., Suite 3800, Denver, CO 80203

THEODORE C. KRAMER, 45 Walnut St., Brattleboro, VT 05301

AMY L. LONGO, 8805 Indian Hills Dr., Suite 280, Omaha, NE 68114-4070

JOHN J. MCAVOY, 3110 Brandywine St. NW, Washington, DC 20008

DONALD E. MIELKE, 7472 S. Shaffer Ln., Suite 100, Littleton, CO 80127

JAMES G. HODGE, JR., Johns Hopkins Bloomberg School of Public Health, 624 N. Broadway, Baltimore, MD 21205-1996, *Reporter*

EX OFFICIO

HOWARD J. SWIBEL, 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606, *President*

LEVI J. BENTON, State of Texas, 201 Caroline, 13th Floor, Houston, TX 77002, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

BRYAN ALBERT LIANG, California Western School of Law, 350 Cedar St., San Diego, CA 92101, *ABA Advisor*

EXECUTIVE DIRECTOR

WILLIAM H. HENNING, University of Alabama School of Law, Box 870382, Tuscaloosa, AL 35487-0382, *Executive Director*

Copies of this Act may be obtained from:
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
211 E. Ontario Street, Suite 1300
Chicago, Illinois 60611
www.nccusl.org

**UNIFORM EMERGENCY VOLUNTEER
HEALTHCARE SERVICES ACT**

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UNIFORM EMERGENCY VOLUNTEER HEALTHCARE SERVICES ACT

Prefatory Note

The human devastation in the Gulf Coast states from Hurricanes Katrina and Rita demonstrated significant shortcomings in the ability of the nation's emergency services delivery system to efficiently and expeditiously incorporate ~~into disaster relief operations~~ the services provided by private sector healthcare ~~professionals, practitioners into disaster relief operations~~. This includes employees and volunteers of non-governmental disaster relief organizations who were needed to ~~meet~~ provide surge capacity in affected areas and ~~to~~ provide timely healthcare ~~assistanceservices~~ to hundreds of thousands of victims of the disaster.

~~Although the U.S. Public Health Service, the Armed Forces, the Federal Disaster Medical Service, and healthcare professionals employed by state and local governments provided much-needed healthcare services, the magnitude of the disaster swamped the ability of these organizations to effectively handle relief operations. Additional resources were readily available throughout the country and thousands of healthcare professionals immediately volunteered to provide assistance. However, state-based emergency response systems lacked a uniform process and legal framework to recognize out-of-state professional licenses and other benefits necessary to authorize and encourage these volunteers to provide healthcare services in many affected areas. In some jurisdictions, volunteer health personnel were not adequately protected against exposure to tort claims or injuries or deaths suffered by the workers themselves.~~

~~Still, as numerous media reported, thousands of doctors and other healthcare practitioners from across the country set aside their practices and traveled to the Gulf Coast to provide emergency healthcare services to those in need. Many of these volunteers came through organized systems, such as the federally-funded, state-based Emergency Systems for the Advance Registration of Volunteer Health Professionals (ESAR-VHP), or local-based Medical Reserve Corps (MRCs). Other volunteers, however, deployed spontaneously to affected areas, complicating response efforts. Some of these health volunteers were turned away or used for purely administrative tasks because their out-of-state professional licenses were not recognized or for other reasons. The Metropolitan Medical Response System program, part of the federal Department of Homeland Security (DHS), references a report on its website:~~

~~Volunteer physicians are pouring in to care for the sick, but red tape is keeping hundreds of others from caring for Hurricane Katrina survivors. The North Carolina mobile hospital waiting to help ... offered impressive state-of-the-art medical care. It was developed with millions of tax dollars through the Office of Homeland Security after 9-11. With capacity for 113 beds, it is designed to handle disasters and mass casualties. It travels in a convoy that includes two 53-foot trailers, which on Sunday afternoon was parked on a gravel lot 70 miles north of New Orleans because Louisiana officials for several days would not let them deploy to the flooded city. 'We have tried so hard to do the right thing. It took us~~

30 hours to get here,' said one of the frustrated surgeons, Dr. Preston "Chip" Rich of the University of North Carolina at Chapel Hill. That government officials can't straighten out the mess and get them assigned to a relief effort now that they're just a few miles away 'is just mind-boggling,' he said.

————As a consequence, rather than treating the injured, sick and infirm, some qualified physicians, nurses and other healthcare practitioners found themselves: (1) waiting in long lines in often futile attempts to navigate through a semi-functioning bureaucracy; or (2) providing other forms of assistance, such as general labor, which failed to utilize their desperately needed healthcare skills. Others proceeded to treat victims at the risk of violating existing state statutes and potentially facing criminal, civil, or administrative penalties. Out-of-state practitioners providing medical treatment also faced the real possibility of non-coverage under their medical malpractice policies.

————While the magnitude of the emergency presented by Hurricane Katrina exceeded the scope of disasters experienced in this country for many decades, foreseeable emerging events pose similar threats. Future storms (especially in the New York City and New England area); major earthquakes in San Francisco, Los Angeles or other heavily urbanized areas; volcanic eruptions in the Pacific Northwest; tidal waves on the east and west coasts; incidents of terrorism involving weapons of mass destruction, including nuclear, biological and chemical agents; and flu or other pandemics may overwhelm the resources of disaster healthcare delivery systems. To meet patient surge capacity, reliance on private sector health professionals and non-governmental relief organizations may be needed.

————Although the U.S. Public Health Service, the Armed Forces, the Federal Disaster Medical Service, and healthcare professionals employed by state and local governments provided much-needed healthcare services, the magnitude of the disaster swamped the ability of these organizations to effectively handle relief operations. While thousands of healthcare professionals quickly volunteered to provide assistance, state-based emergency response systems lacked a uniform process and legal framework to recognize out-of-state professional licenses and other benefits necessary to authorize and encourage these volunteers to provide healthcare services in many affected areas. In some jurisdictions, volunteer healthcare practitioners were not adequately protected against exposure to tort claims or injuries or deaths suffered by the volunteers themselves.

————This presupposes that the legal environment supports the deployment and use of intra- and inter-state volunteer healthcare practitioners. In fact, there are some existing major legal gaps and deficiencies that may stymie, rather than encourage, widespread volunteer activities during emergencies. The federal Congress continues to examine some of these gaps through the introduction of multiple federal bills since September, 2005. Similarly, it has directed the Department of Health and Human Services (DHHS) to establish the Disaster Medical Relief Service consisting of "intermittent federal employees" who enjoy interstate professional licensing recognition and protections from civil liability via federal law.

————States are uniquely positioned to identify and remedy these gaps as well. Many state

~~governments have recognized the need to grant emergency licensing recognition on an interstate basis and to afford disaster healthcare workers with protection from civil liability. Currently every state (except HI) have ratified the Emergency Management Assistance Compact (EMAC), which provides for licensing reciprocity and relief from civil liability to “state forces” deployed to respond to emergencies. Many state laws underlying the declaration of public health emergencies (typically framed based on the Model State Emergency Health Powers Act developed by the *Center for Law and the Public’s Health at Georgetown and Johns Hopkins Universities*) also provide for healthcare licensing licensure recognition in many jurisdictions. However, no uniform provisions have been drafted to date to efficiently incorporate the full resources of our healthcare delivery system, especially volunteer healthcare practitioners, into emergency responses.~~

~~Specifically concerning the deployment and use of volunteer healthcare practitioners during emergencies or other dire circumstances, a uniform approach to drafting model legislative language among states presents several key advantages:~~

~~Still, as numerous media reported, thousands of doctors and other healthcare practitioners from across the country set aside their practices and traveled to the Gulf Coast to provide emergency healthcare services to those in need. Many of these volunteers came through organized systems, such as the federally-funded, state-based Emergency System for the Advance Registration of Volunteer Health Professionals (ESAR-VHP), or local-based units of the Medical Reserve Corps (MRCs). Other volunteer healthcare practitioners, however, deployed spontaneously to affected areas, complicating response efforts. Some of these volunteers were turned away or used for purely administrative tasks because their out-of-state professional licenses were not recognized, the entities hosting them were concerned about liability, or for other reasons. The Metropolitan Medical Response System program, part of the federal Department of Homeland Security (DHS), references a report on its website:~~

~~Volunteer physicians are pouring in to care for the sick, but red tape is keeping hundreds of others from caring for Hurricane Katrina survivors. The North Carolina mobile hospital waiting to help ... offered impressive state-of-the-art medical care. It was developed with millions of tax dollars through the Office of Homeland Security after 9-11. With capacity for 113 beds, it is designed to handle disasters and mass casualties. It travels in a convoy that includes two 53-foot trailers, which on Sunday afternoon was parked on a gravel lot 70 miles north of New Orleans because Louisiana officials for several days would not let them deploy to the flooded city. ‘We have tried so hard to do the right thing. It took us 30 hours to get here,’ said one of the frustrated surgeons, Dr. Preston “Chip” Rich of the University of North Carolina at Chapel Hill. That government officials can’t straighten out the mess and get them assigned to a relief effort now that they’re just a few miles away ‘is just mind-boggling,’ he said.~~

~~Rather than treating the injured, sick and infirm, some qualified physicians, nurses and other licensed healthcare practitioners found themselves: (1) waiting in long lines in often futile~~

attempts to navigate through a semi-functioning bureaucracy; or (2) providing other forms of assistance, such as general labor, which failed to utilize their desperately needed healthcare skills. Others proceeded to treat victims at the risk of violating existing state statutes and potentially facing criminal or administrative penalties or civil liability. Out-of-state practitioners providing medical treatment also faced the real possibility of noncoverage under their medical malpractice policies.

- ~~Lacking uniformity, separate state-by-state enactments create inconsistencies and dilemmas at a time when their solution is unwieldy if not unworkable;~~
- ~~An ad hoc, state-by-state approach is less likely to benefit from the focused participation of the key national constituencies that may support a uniform law; and~~
- ~~Even the best single-state bill cannot anticipate or reflect the valid concerns of other states.~~

The Uniform Emergency Volunteer Healthcare Services Act (UEVHSA) provides model legislative language to facilitate organized response efforts among volunteer health professionals. UEVHSA's provisions address the following: While the magnitude of the emergency presented by Hurricanes Katrina, Rita, and Wilma exceeded the scope of disasters experienced in this country for many decades, foreseeable emerging events pose similar threats. Future storms (especially in the New York City and New England area); major earthquakes in San Francisco, Los Angeles or other heavily urbanized areas; volcanic eruptions in the Pacific Northwest; tidal waves on the east and west coasts; incidents of terrorism involving weapons of mass destruction, including nuclear, biological and chemical agents; and flu or other pandemics may overwhelm the resources of disaster healthcare delivery systems. To help meet patient surge capacity and protect the public's health, reliance on private sector health practitioners and nongovernmental relief organizations may be needed.

This presupposes that the legal environment supports the deployment and use of intra- and inter-state volunteer healthcare practitioners. In fact, there are some existing major legal gaps and deficiencies that may stymie, rather than encourage, widespread volunteer healthcare practitioner activities during emergencies. The U.S. Congress continues to examine some of these gaps through the introduction of multiple bills since September, 2005. Similarly, it has directed the Department of Health and Human Services (DHHS) to establish the Disaster Medical Relief Service consisting of "intermittent federal employees" who enjoy interstate professional licensing recognition and protections from civil liability via federal law.

- ~~The specific kinds of volunteer healthcare practitioners covered (focused on pre-registered volunteers who act on their own free will);~~
- ~~Application of its coverage to declared states of disaster, emergency, or public health emergency (or like terms at the state or local level) or in dire circumstances;~~
- ~~Procedures to recognize the valid and current licenses of volunteer healthcare practitioners in other states for the duration of an emergency or invocation of the Act;~~

As first responders, states (and their local subsidiaries) are uniquely positioned to identify

and remedy these gaps as well. Many state governments have recognized the need to grant emergency licensing recognition on an interstate basis and to afford disaster relief workers (which may include volunteer healthcare practitioners) with protection from civil liability. Every state has ratified the Emergency Management Assistance Compact (EMAC), which provides for licensing reciprocity, relief from civil liability, and workers' compensation protections to "state forces" deployed to respond to emergencies. Many state laws underlying the declaration of public health emergencies (typically framed based on the Model State Emergency Health Powers Act developed by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities) also provide for interstate healthcare licensure recognition in many jurisdictions. However, no uniform provisions have been drafted to date to efficiently incorporate the full resources of volunteer healthcare practitioners into emergency responses.

Concerning the deployment and use of volunteer healthcare practitioners during emergencies, a uniform legal approach among the states presents several key advantages:

- Lacking uniformity, separate state-by-state enactments create inconsistencies and dilemmas in legal authorities or protections at a time when their solution is unwieldy, if not unworkable;
- An ad hoc, state-by-state approach is less likely to benefit from the focused participation of the key national constituencies that may support a uniform law; and
- Even the best single-state bill cannot anticipate or reflect the valid concerns of other states.

The Uniform Emergency Volunteer Healthcare Services Act (UEVHSA) provides uniform legislative language to facilitate organized response efforts among volunteer healthcare practitioners. UEVHSA's provisions address the following:

- Application of its coverage to declared states of emergency, disaster, or public health emergency (or like terms at the state or local level);
- The coverage of volunteer healthcare practitioners who are registered with ESAR-VHP, MRC, or other similar systems and volunteer based on their own volition);
- Procedures to recognize the valid and current licenses of volunteer healthcare practitioners in other states for the duration of an emergency declaration;
- Requirements for volunteer healthcare practitioners to adhere to scope of practice standards during the emergency (subject to modifications or restrictions);
- Removal of significant disciplinary sanctions or civil liability against volunteer healthcare practitioners, or those who employ, deploy, or ~~supervise~~ host them; and
- ~~Worker's~~Workers' compensation protections for volunteer healthcare practitioners.

Legislative Notes

To be provided.

1 **UNIFORM EMERGENCY VOLUNTEER HEALTHCARE SERVICES ACT**

2
3 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Emergency
4 Volunteer Healthcare Services Act.

5
6 **SECTION 2. DEFINITIONS.** As used in this [act]:

7 (1) **“Comprehensive healthcare facility”** means a healthcare entity that provides
8 comprehensive inpatient and outpatient services on a regional basis.- The term includes tertiary
9 care and teaching hospitals.

10 ~~*[Reporter’s Note: This definition needs additional work. The term is used in Section 4(a)(2) to*~~
11 ~~*describe a type of registration system that will be recognized by an enacting state without action*~~
12 ~~*by an agency of that state.]*~~—

13
14 ———(2) **“Coordinating entity”** means an entity that acts as a liaison to facilitate
15 _communication and cooperation between source and host entities but does not provide
16 healthcare or veterinary services in the ordinary course of its activities as liaison.}

17 ~~*[Reporter’s Note: This definition needs additional work. The major idea is to identify those*~~
18 ~~*entities other than host and source entities that should be immunized from vicarious liability*~~
19 ~~*under Section 7(c).]*~~

20
21 (3) **“Credentialing”** means obtaining, verifying, and assessing the qualifications of a
22 healthcare practitioner to provide patient care, treatment, and services in or for a healthcare
23 entity.

24 (4) **“Disaster relief organization”** means an entity that provides emergency or disaster
25 relief services that include healthcare or veterinary services provided by volunteer healthcare
26 practitioners and that (A) is designated or recognized as a provider of such services pursuant to a

1 disaster response and recovery plan adopted by the [*name of appropriate agency or agencies*],
2 or (B) conducts its activities in coordination with the [*name of appropriate agency or agencies*].

3 (5) **“Emergency”** means an emergency, disaster, ~~or~~ public health emergency or similar
4 term as defined by the laws of this state[, a political subdivision of this state, or a municipality or
5 other local government within this state].

6 *Legislative Note: The terms “emergency,” “disaster,” and “public health emergency”*
7 *are the most commonly used terms to describe the circumstances that may lead to the*
8 *issuance of an emergency declaration referred to in this [act]. States that use other*
9 *terminology should consider amending this definition to reflect their terminology.*

10 (6) **“Emergency declaration”** means a declaration of an emergency issued by a person
11 authorized to do so by the laws of this state[, a political subdivision of this state, or a
12 municipality or other local government within this state].

13 (7) **“Emergency Management Assistance Compact (EMAC)”** refers to the mutual aid
14 agreement ratified by Congress and signed into law in 1996 as Public Law 104-321, and
15 subsequently enacted by this state and codified at [*cite*].

16 (8) **“Emergency Systems for Advance Registration of Volunteer Health**
17 **Professionals (ESAR-VHP)”** means ~~that the~~ state-based program created with funding through
18 the Health Resources Services ~~Agency Administration~~ under Section 107 of the federal Public
19 Health Security and Bioterrorism Preparedness and Response Act of 2002, P.L. 107-188, to
20 facilitate the effective deployment and use of volunteers to provide healthcare services during
21 emergencies.

22 (9) **“Entity”** means a corporation, business trust, ~~estate,~~ trust, partnership, limited
23 liability company, association, joint venture, public corporation, government, or governmental

1 subdivision, agency, or instrumentality, or any other legal or commercial organization. The term
2 does not include an individual- or estate.

3 ~~*[Reporter's Note: While this is a standard conference definition for this term, it may be both too*~~
4 ~~*broad and too narrow in the context of this act. We might consider adding "disaster relief*~~
5 ~~*organization" and "healthcare facility" and excluding those types of entities (e.g., business*~~
6 ~~*trusts, estates, trusts) that will never be involved in the kinds of activities contemplated by the*~~
7 ~~*act.]*~~

8
9 (10) **“Good faith”** means honesty in fact.

10 (11) **“Healthcare entity”** means an entity that provides healthcare or veterinary services.

11 (12) “Healthcare practitioner” means a person licensed in any state to provide
12 healthcare or veterinary services.

13 ~~(13)~~ **“Healthcare services”** means the provision of care, services, or supplies related
14 to the health or death of ~~an individual~~ individuals, or to populations, including (A) preventive,
15 diagnostic, therapeutic, rehabilitative, maintenance, or -palliative care, and counseling, service,
16 assessment, or procedure concerning the physical or mental condition, or functional status, of an
17 individual or that affects the structure or function of the body; (B) sale or dispensing of a drug,
18 device, equipment, or other item to an individual in accordance with a prescription; and (C)
19 mortuary services.

20 ~~(14)~~ **“Host entity”** means a healthcare entity, disaster relief organization, or other
21 entity in this state that uses volunteer healthcare practitioners to provide healthcare ~~services~~
22 ~~during the period of an emergency or other invocation of this [act].~~ or veterinary services while
23 an emergency declaration is in effect.

24 ~~(15)~~ **“Individual”** means a natural person.

25 ~~(16)~~ **“License”** means official permission granted by a competent governmental

1 authority to engage in healthcare or veterinary services otherwise considered unlawful without
2 such permission. [The term includes permission granted by the laws of this state to an individual
3 to provide healthcare or veterinary services based upon a national certification issued by a public
4 or private entity.]

5 ~~(16)~~ *Reporter’s Note: The last sentence is bracketed to signify the need for a policy*
6 *decision for the drafting committee.*

7 (17) **“Medical Reserve Corps (MRC)”** means a local unit consisting of trained and
8 equipped emergency response, public health, and medical personnel formed pursuant to Section
9 2801 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002,
10 P.L. 107-188, to ensure that state and local governments have appropriate capacity to detect and
11 respond effectively to an emergency.

12 ~~(17)~~ **“Person”** means an individual or an entity.

13 ~~(18)~~ **“Privileging”** means the authorization granted by an appropriate authority, such
14 as a governing body, to a healthcare practitioner to provide specific care, treatment, and services
15 ~~in~~ at a healthcare entity subject to well-defined limits based on factors that include license,
16 education, training, experience, competence, health status, and **judgment**.

17 ~~(19)~~ **“Scope of practice”** ~~means the services routinely performed by a healthcare~~
18 ~~practitioner consonant with the practitioner’s education, training, and specialized judgment.~~

19 ~~(20)~~ **“Source entity”** ~~means a healthcare or other entity located in any state that employs~~
20 ~~or uses the services of healthcare practitioners who volunteer to provide healthcare services~~
21 ~~during the period of an emergency declaration or other invocation of this [act].~~

22 ~~(21)~~ **“Standard of care”** ~~means the reasonable diligence, skill, and competence~~
23 ~~employed by healthcare practitioners in the same capacity or general field of practice who have~~

1 available to them the same general facilities, equipment, and options to provide appropriate care
2 or treatment as required by the laws of this state.

3 (20) “Registration system” means a system that facilitates the registration of volunteer
4 healthcare practitioners prior to the time their services may be needed and that: (A) includes
5 organized information about the volunteers that is accessible by authorized personnel; and (B)
6 can be used to verify the accuracy of information concerning whether the volunteers are licensed
7 and in good standing.

8 (21) “Scope of practice” means the healthcare or veterinary services which a volunteer
9 healthcare practitioner is licensed to perform.

10 (22) “Source entity” means a healthcare entity, disaster relief organization, or other
11 entity located in any state that employs or uses the services of healthcare practitioners who
12 volunteer to provide healthcare or veterinary services while an emergency declaration is in
13 effect.

14 (23) “State” means a state of the United States, the District of Columbia, Puerto Rico,
15 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
16 of the United States. The term also includes an Indian tribe or band that has jurisdiction to issue
17 emergency declarations[, or any other jurisdiction recognized as suitable to provide volunteer
18 healthcare practitioners for use in this state by the [name of appropriate agency or agencies][,
19 including any jurisdiction that is a party to the International Emergency Assistance
20 Compact]]-nation.

21 (2324) “Veterinary services” means [the provision of care, services or supplies related
22 to the health or death of animals, including the removal or disposal of dead animals.]

1 [Reporter's Note: The definition of veterinary services needs further development based
2 on forthcoming input from the American Veterinary Medical Association or others.]

3 (25) "Volunteer healthcare practitioner" means a healthcare practitioner who, as an
4 act of the practitioner's own volition, provides healthcare or veterinary services in this state
5 ~~during the period of~~while an emergency declaration ~~or other invocation of this [act]~~is in effect.

6
7 **SECTION 3. AUTHORIZATION FOR VOLUNTEER HEALTHCARE**
8 **PRACTITIONERS TO PROVIDE HEALTHCARE SERVICES.**

9 (a) This [act] authorizes volunteer healthcare practitioners to provide healthcare or
10 veterinary services in this state ~~during the time~~ while an emergency declaration is in effect
11 subject to the requirements of this [act].

12 ~~——(b) This [act] authorizes volunteer healthcare practitioners to provide healthcare services~~
13 ~~in this state if the [name of appropriate agency or agencies] determines that the services of~~
14 ~~volunteer healthcare practitioners are necessary within this state to respond to nonemergency~~
15 ~~circumstances at a local, regional, or state-wide level, including the care of victims of~~
16 ~~emergencies evacuated or displaced from other states or the conduct of activities necessary to~~
17 ~~prepare for an anticipated or threatened emergency. The person who invokes this act under this~~
18 ~~subsection must terminate its invocation upon determining that the circumstances or conditions~~
19 ~~that justified the invocation no longer exist. This [act] may not be invoked under this subsection~~
20 ~~to the extent the invocation overlaps with an existing or subsequently issued emergency~~
21 ~~declaration under subsection (a).~~

22 ~~——(c) During the period of an emergency declaration or other invocation of this [act], the~~
23 ~~[name of appropriate agency or agencies] may issue orders limiting, restricting, or regulating (1)~~

1 ~~the duration of practice by volunteer healthcare practitioners, (2) the geographical areas in which~~
2 ~~volunteer healthcare practitioners may practice, (3) the class of volunteer healthcare practitioners~~
3 ~~who may practice, and (4) any other matters as necessary to coordinate effectively the provision~~
4 ~~of healthcare services.~~

5 (b) While an emergency declaration is in effect, the [name of appropriate agency or
6 agencies] may issue orders limiting, restricting, or regulating (1) the duration of practice by
7 volunteer healthcare practitioners, (2) the geographical areas in which volunteer healthcare
8 practitioners may practice, (3) the class or classes of volunteer healthcare practitioners who may
9 practice, and (4) any other matter necessary to coordinate effectively the provision of healthcare
10 or veterinary services.

11
12 **SECTION 4. VOLUNTEER HEALTHCARE PRACTITIONER REGISTRATION**
13 **SYSTEMS.**

14 (a) This [act] applies only to volunteer healthcare practitioners registered as volunteers
15 with: a registration system that is:

16 (1) an ESAR-VHP or MRC; system;

17 (2) ~~a similar registration system~~ operated by a disaster relief organization,
18 licensing board, association of licensing boards or healthcare ~~professionals practitioners,~~
19 comprehensive healthcare facility, or governmental entity; or

20 (3) ~~a system~~ approved pursuant to subsection (b).

21 (b) The [name of appropriate agency or agencies] may designate registration systems
22 other than those set forth in ~~subsection (a)(1) and (2)~~ and extend to volunteer

1 healthcare practitioners registered with them the protections and privileges of this [act]. ~~No~~
2 ~~system may be so designated unless it facilitates the registration of volunteer healthc~~
3 ~~practitioners prior to the time their services may be needed.~~

4 (c) ~~During the period of~~ While an emergency declaration ~~or other invocation of this [act]~~
5 is in effect, the ~~[name of appropriate agency or agencies]]~~, or a person or persons authorized to
6 act on behalf of the ~~[agency or agencies]~~, may confirm whether volunteer healthcare
7 practitioners utilized in this state are ~~entitled to the protections of this [act]. If required,~~
8 ~~confirmation registered with a registration system.~~ Confirmation is limited to determining the
9 identities of the volunteer healthcare practitioners ~~who and whether they~~ are ~~registered and in~~
10 good standing with ~~a the~~ system ~~described in subsection (a) or approved pursuant to subsection~~
11 ~~(b).~~

12 (d) The ~~[name of appropriate agency or agencies]~~ ~~shall~~ may establish procedures ~~in~~
13 ~~advance~~ for the efficient confirmation of volunteer healthcare practitioners ~~during the period of~~
14 ~~an emergency declaration or other invocation of this [act], pursuant to subsection (c).~~

15

16 **SECTION 5. INTERSTATE LICENSURE RECOGNITION FOR VOLUNTEER**
17 **HEALTHCARE PRACTITIONERS.**

18 (a) ~~If~~ While an emergency declaration is in effect, a volunteer healthcare practitioner
19 ~~authorized to provide healthcare services in this state by this [act] is~~ licensed and in good
20 standing in another state, may practice in this state as if the person had been licensed in this state
21 ~~shall recognize the out-~~

22 (b) This [act] does not affect credentialing and privileging standards of state license as if

1 ~~the license had been issued by this state during the period of an emergency declaration or other~~
2 ~~invocation of this [act].~~

3 ~~——(b) This [act] does not affect any requirement that~~ a healthcare entity ~~may have~~
4 ~~concerning credentialing and privileging standards,~~ nor does it preclude a healthcare entity from
5 waiving or modifying such standards ~~during the period of~~while an emergency declaration ~~or~~
6 ~~other invocation of this [act].~~ is in effect.

7

8 **SECTION 6. PROVISION OF VOLUNTEER HEALTHCARE SERVICES.**

9 (a) ~~[Subject to subsection (d), a]~~ [A] volunteer healthcare practitioner, including a
10 practitioner licensed in another state and authorized to provide healthcare or veterinary services
11 in this state pursuant to this [act], must adhere to the ~~normal~~ scope of practice ~~and standard of~~
12 ~~care~~ established by the licensing provisions, practice acts, or other laws ~~or policies~~ of this state.

13 (b) The [*name of appropriate agency or agencies*] may modify, ~~or~~ restrict ~~or enlarge~~ the
14 ~~normal~~ scope of practice ~~or standard of care~~ for volunteer healthcare practitioners practicing in
15 this state pursuant to this [~~act.~~] while an emergency declaration is in effect.

16 (c) A host entity may ~~limit, restrict, or modify~~ the types of services that a volunteer
17 healthcare practitioner may provide pursuant to this [act] ~~as long as the limitation, restriction, or~~
18 ~~modification is consistent with the scope of practice or standard of care as provided in~~
19 ~~subsections (a) and (b).~~ while an emergency declaration is in effect.

20 [(d) Nothing in this [act] authorizes a volunteer healthcare practitioner to provide
21 healthcare or veterinary services that are outside the practitioner’s scope of practice in any of the
22 other states in which the practitioner is licensed and in good standing.]

1 (e) A volunteer healthcare practitioner who in good faith provides healthcare or
2 veterinary services consistent with subsections (a), (b), [and] (c)[, and (e)d] shall not be subject
3 to administrative sanctions for unauthorized practice.

4 (ef) A volunteer healthcare practitioner who is licensed in another state, is unaware of a
5 limitation modification or restriction on the scope of practice in this state, and who in good faith
6 provides healthcare or veterinary services consistent with the practitioner's ~~normal~~ scope of
7 practice in another state shall not be subject to administrative sanctions for unauthorized practice.

8 ~~——(f) In determining whether to impose administrative sanctions for conduct outside the~~
9 ~~scope of practice and for which the volunteer healthcare practitioner is not subject to~~
10 ~~administrative sanctions under subsections (d) and (e), a licensing board or other disciplinary~~
11 ~~authority shall consider the nature of the exigent circumstances in which the actions took place.~~

12 ~~——~~ **~~[SECTION 7. CIVIL IMMUNITY FOR VOLUNTEER HEALTHCARE~~**
13 **~~PRACTITIONERS; NO VICARIOUS LIABILITY.~~**

14 ~~——(a) Subject to subsections (d) and (e), volunteer healthcare practitioners authorized to~~
15 ~~provide healthcare services by this [act] are not liable for civil damages arising out of such~~
16 ~~services provided during the period of the emergency declaration or other invocation of this~~
17 ~~[act].~~

18 ~~——(b) Subject to subsections (d) and (e), volunteer healthcare practitioners authorized to~~
19 ~~provide healthcare services by this [act] are not liable for civil damages for nonhealthcare-related~~
20 ~~acts performed within the scope of their activities as volunteer healthcare practitioners during the~~
21 ~~period of the emergency declaration or other invocation of this [act].~~

22 ~~——(c) Source, coordinating, and host entities are not vicariously liable for damages arising~~

1 out of actions for which volunteer healthcare practitioners are not liable under subsections (a),
2 (b) and (c).

3 ~~—— (d) Subsections (a), (b), and (c) shall not apply to (1) the willful, wanton, grossly
4 negligent, reckless, or criminal conduct of a volunteer healthcare practitioner during the period
5 of an emergency declaration or other invocation of this [act]; and (2) an action (A) for damages
6 for breach of contract, or (B) brought against the practitioner by a source or host entity.]~~

7 ~~—— **[SECTION 8. WORKERS' COMPENSATION COVERAGE.**~~

8 ~~**Option A**~~

9 ~~Unless the volunteer healthcare practitioner is covered by workers' compensation insurance (or
10 other insurance providing comparable benefits) provided by a coordinating, host, or source
11 entity, or other person, a practitioner who resides in this state and who provides healthcare
12 services in this or another state during the period of an emergency declaration or other invocation
13 of this [act] or another state's similar [act] shall be considered an employee of this state for
14 purposes of workers' compensation coverage.~~

15 ~~**Option B**~~

16 ~~Unless the volunteer healthcare practitioner is covered by workers' compensation insurance (or
17 other insurance providing comparable benefits) provided by a coordinating, host, or source
18 entity, or other person, a practitioner who provides healthcare services in this state during the
19 period of an emergency declaration or other invocation of this [act] shall be considered an
20 employee of this state for purposes of workers' compensation coverage.~~

21 [(g) In the case of conduct of a volunteer healthcare practitioner for which the
22 practitioner is not protected under subsections [(e) and (f)] [(d) and (e)], a licensing board or

1 other disciplinary authority in this state:

2 (1) may impose administrative sanctions if the practitioner is licensed in this state
3 without regard to the state in which the conduct occurs;

4 (2) may impose administrative sanctions if the practitioner is not licensed in this
5 state and the conduct occurs in this state; and

6 (3) must report any administrative sanctions to the appropriate licensing board or
7 other disciplinary authority in any other state in which the practitioner is known to be licensed.]

8 (h) In determining whether to impose administrative sanctions under subsection (g), a
9 licensing board or other disciplinary authority shall consider the nature of the exigent
10 circumstances in which the conduct took place and the practitioner's education, training,
11 experience, and specialized judgment.

12 [Reporter's Note: Sections 6(d) and 6(g) are bracketed to signify the need for policy
13 decisions for the drafting committee.]

14

15 **SECTION 7. NO LIABILITY FOR VOLUNTEER HEALTHCARE**

16 **PRACTITIONERS; EXCEPTIONS; NO VICARIOUS LIABILITY.**

17 (a) Subject to subsection (b), volunteer healthcare practitioners authorized to provide
18 healthcare or veterinary services pursuant to this [act] while an emergency declaration is in effect
19 are not liable for civil damages for acts or omissions within the scope of their responsibilities as
20 volunteer healthcare practitioners.

21 (b) Subsection (a) does not apply to: (1) willful, wanton, grossly negligent, reckless, or
22 criminal conduct of, or an intentional tort committed by, a volunteer healthcare practitioner; (2)
23 an action brought against a volunteer healthcare practitioner (A) for damages for breach of

1 contract, (B) by a source or host entity, or (C) the operation of a motor vehicle, vessel, aircraft,
2 or other vehicle by a volunteer healthcare practitioner for which this state requires the operator to
3 have a valid operator's license or to maintain liability insurance.

4 (c) Source, coordinating, and host entities are not vicariously liable for the acts or
5 omissions of volunteer healthcare practitioners while an emergency declaration is in effect.

6
7 **SECTION 8. WORKERS' COMPENSATION COVERAGE.** If a volunteer
8 healthcare practitioner who is deployed to this state while an emergency declaration is in effect is
9 not covered by workers' compensation insurance provided by a source, coordinating, or host
10 entity, or by another person, or the practitioner is not covered by other insurance providing
11 comparable benefits, the practitioner shall be considered an employee of this state for purposes
12 of workers' compensation coverage.

13
14 **SECTION 9. EFFECT OF COMPENSATION ON VOLUNTEER STATUS.**

15 (a) ~~A~~The prospective, concurrent, or retroactive provision of monetary or ~~any~~ other
16 compensation to a healthcare practitioner by any person for ~~providing the provision of~~ healthcare
17 ~~or veterinary~~ services ~~during the period of while~~ an emergency declaration ~~or other invocation of~~
18 ~~this [act] is in effect~~ does not preclude the practitioner from being ~~considered~~ a volunteer
19 healthcare practitioner under this [act], unless ~~such the~~ compensation is provided pursuant to
20 ~~the~~ preexisting employment relationship with the host entity that requires the practitioner to
21 provide healthcare or veterinary services in this state.

22 ~~{(b) The prohibition upon a preexisting employment relationship in subsection (a) shall~~

1 ~~not~~ This section does not apply to ~~(1)~~ a healthcare practitioner who is not a resident of this state
2 and who is employed by a disaster relief organization providing services in this state ~~pursuant to~~
3 ~~this act; or (2) a healthcare practitioner who is not a resident of this state who volunteers for~~
4 ~~deployment to this state to provide healthcare services at a healthcare facility or organization~~
5 ~~affiliated with the healthcare practitioner's place of employment during an emergency or period~~
6 ~~of time in which this [act] is invoked, provided the healthcare practitioner's compensation does~~
7 ~~not exceed the practitioner's customary and usual compensation.]~~ while an emergency
8 declaration is in effect.

9 *[Reporter's Note: Subsection (b) needs additional work. The major idea is*

10

11 **SECTION 10. RELATION TO OTHER LAWS.**

12 [(a) This [act] does not limit protections from liability or other benefits provided to
13 neatly distinguish between volunteer healthcare practitioners and existing employees of
14 healthcare or other entities with certain exceptions. Subsection (b) provides 2 exceptions in
15 response to comments from participants at the first Drafting Committee, but these remain
16 tentative based on additional input and guidance].

17 ~~SECTION 10. RELATION TO OTHER LAWS.~~ Nothing in this [act] is intended to
18 limit additional protections from liability or other benefits for volunteer healthcare practitioners
19 ~~provided~~ by laws other than this [act] ~~or to~~, nor does it establish requirements for the use of
20 volunteer healthcare practitioners ~~used~~ in this state pursuant to EMAC.

21 [(b) The [name of appropriate agency or agencies] may incorporate into state forces
22 used to respond to emergencies through EMAC a volunteer healthcare practitioner who is not an

1 employee of this state, a political subdivision of this state, or a municipality or other local
2 government within this state.]

3 Legislative Note: References to other emergency assistance compacts to which the state
4 is a party should be added.

5

6 **SECTION 11. REGULATORY AUTHORITY.** The [*name of appropriate state*
7 *agency or agencies*] [is] [are] authorized to promulgate regulations to implement the provisions
8 of this [act]. In doing so, the [*name of appropriate state agency or agencies*] shall consult with,
9 and consider the recommendations of, the entity established to coordinate the implementation of
10 EMAC and shall also consult with, and consider the regulations promulgated by, similarly
11 empowered agencies in other states in order to promote uniformity of application of this act and
12 thereby make the emergency response systems in the various states reasonably compatible.

13

14 **SECTION 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
15 applying and construing the provisions of this [act], consideration must be given to the need to
16 promote uniformity of the law with respect to its subject matter among states that enact it.

17

18 **SECTION 13. SEVERABILITY.** The provisions of this [act] are severable. If any
19 provision of this [act] or its application to any person or circumstance is held invalid, such does
20 not affect other provisions or applications of this [act] which can be given effect without the
21 invalid provision or application.