Uniform Emergency Volunteer Health Practitioners Act

Solving problems that impede the effective use of volunteer health practitioners during emergencies
I. The Gaps

- Existing state and federal mechanisms for the registration or deployment of healthcare professionals during emergencies suffer from one or more of the following problems, leading to gaps in their ability to effectively deploy licensed health practitioners:
  - Significant pre-registration lead times
  - Limited by ‘state forces’ requirements
  - Do not cover a broad enough range of licensed professions (EMTs, mental health professionals, veterinarians, coroners, etc.)
  - Tied to state bureaucracies
Filling the Gap – What is needed?

- Ability to provide ‘surge capacity’ which can utilize thousands of licensed health practitioners – not just ‘state forces’.

- Ability to provide coordinated deployment while discouraging self-deployment

- A uniform state legal framework to temporarily license out-of-state health practitioners, and to provide predictable mechanisms for oversight

- The ability to utilize multiple host entities to provide health services in a coordinated manner

- A system that ensures volunteers are qualified by requiring registration with an appropriate registration system

- Automatic system that begins functioning upon the declaration of an emergency, clear rules defining a volunteer’s authorized scope of practice, and clear oversight powers for the licensing board of the host state
Uniform Law Commission

- Oldest State Governmental Organization – 1892
- Each state appoints a state commission; these commissions form the Uniform Law Commission
- Not an interest group – primarily funded by direct state appropriations
- Commissioners are state and federal judges, state legislators, law professors, drafting agency directors, private practitioners in wide area of fields – all must be attorneys, and all are uncompensated volunteers
ULC

- NCCUSL statutes are adopted voluntarily by the legislatures of the states and territories.

- Best known for the Uniform Commercial Code (UCC), business entity laws, interstate procedural acts, family law acts, and investment governance acts.

- NCCUSL also drafts reciprocal state licensing recognition statutes and has a long history of work in public health subjects, including:
  - *Uniform Anatomical Gift Act*
  - *Uniform Controlled Substances Act*
  - *Uniform Determination of Death Act*
  - *Uniform Health Care Decisions Act*
III. The Process

- **Timeline**
  - Study project initiated November, 2006
  - Stakeholder Meeting held February, 2006; drafting committee approved
  - 1st Drafting Committee Meeting April, 2006
  - 2nd Drafting Committee Meeting, June, 2006
  - 3rd Drafting Committee Meeting, July, 2006
  - Consideration and debate on the floor of NCCUSL
    - 3 successive sets of changes & amendments
  - Approval in NCCUSL vote-by-states on July 13, 2006
  - Approval by ABA House of Delegates on August 8, 2006
  - Section 11 and 12 covering liability and workers’ compensation approved on Aug 3, 2007
The Process (cont.)

Advisors

- American Association of State and Territorial Health Officials
- National Association of Social Workers
- American Medical Association
- Association of State & Provincial Psychology Boards
- National Council of State Boards of Nursing
- American Psychology Association
- American Counseling Association
- Walgreens, Inc.
- Boston University Schools of Law and Public Health
- American Counseling Association
- National Association of Chain Drug Stores
- Federation of State Medical Boards
- American Red Cross
- American Nurses Association
- American Association for Marriage and Family Therapy
- American Hospital Association
- National Association of Emergency Management Technicians
- National Emergency Management Association
- National Funeral Directors Association
- Animal Disaster Relief Network
- American Veterinary Medical Association
ULC meetings are consensus-based
- All advisors and observers actively participate in debates, and new drafts are circulated before each meeting
- Thorough review by entire Conference at annual meeting

Reasons for Urgency

Expertise of Reporter

Support from Robert Wood Johnson Foundation
IV. The Act

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) provides uniform rules designed to facilitate the effective deployment of volunteer health practitioners as part of organized emergency response efforts. UEVHPA’s provisions:

- Are initiated automatically whenever there is a declared state of emergency, disaster, or public health emergency (or like terms at the state or local level);
- Require that volunteer health practitioners be licensed and in good standing in a state and be registered with a registration system such as ESAR-VHP, MRC, or other similar systems;
- Grant temporary license privileges to qualified out-of-state volunteers so that they may provide services while an emergency declaration is in effect;
- Create rules regarding the scope of the services that volunteer health practitioners are authorized to provide during the emergency;
- Create rules that protect qualified volunteer health practitioners who follow the rules from being subjected to disciplinary sanctions for unauthorized practice.
Key sections of interest

- Section 5 - Regulatory boards and consortia of regulatory boards may choose to create and operate registration systems
- Section 6 – Temporary licensing of qualified volunteer health practitioners
- Section 7 - No effect on privileging and credentialing
Section 8

- Section 8(a) – Out-of-state volunteer health practitioners generally bound by scope-of-practice requirements for similarly situated in-state licensees regardless of the scope of practice in their home state.

- Section 8(b) – Out-of-state volunteer health practitioners may not exceed their normal scope of practice regardless of the scope of practice authorized for similar in-state licensees.
Section 8 (cont.)

- Section 8(c) – Licensing boards may modify or restrict the authorized scope of practice under this act by rule or by order
  - Orders under this provision may be issued on an emergency basis and are not subject to state APA requirements

- Section 8(e) provides volunteers with a limited shield for unknowingly engaging in unauthorized practice

- Section 8(f) gives licensing board explicit authority to
  - (1) Impose administrative sanctions on home-state licensees for conduct outside of the state during an emergency
  - (2) Impose administrative sanctions on out-of-state practitioners for conduct in the board’s state during an emergency
  - (3) Requires licensing boards to report any administrative sanctions imposed on an out-of-state practitioner to the appropriate board in the practitioner’s home state
Section 11

Civil Liability – Alternative A

- “a [VHP] who provides health or veterinary services pursuant to this [act] is not liable for damages for an act or omission of the practitioner in providing those services.” § 11(a)

- “No person is vicariously liable for damages for an act or omission of a [VHP] if the practitioner is not liable for the damages” § 11(b)
Section 11

Civil Liability – Alternative B

- “a [VHP] who does not receive compensation that exceeds [$500] per year for providing health or veterinary services pursuant to this [act] is not liable for damages for an act or omission of the practitioner in providing those services.” § 11(a)

- “Reimbursement of, or allowance for, reasonable expenses, or continuation of salary while on leave, is not compensation.” Id.

- Vicarious liability left to other state law.
Section 12

A [VHP] ... who is not otherwise eligible for benefits for injury or death under the workers’ compensation laws of this or another state may elect to be deemed to be an employee of this state ... by making a claim in accordance with the workers’ compensation law of this state.” § 12(b)

“[the state] shall adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits ... by [VHPs] who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the practitioners.” § 12(c)
V. Work Continues
For More Information

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Visit www.uevhpa.org or www.nccusl.org