Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) —

Legal and Regulatory Issues

Department of Health and Human Services
Health Resources and Services Administration
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Division of Healthcare Preparedness
ESAR-VHP Program

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Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) – Legal and Regulatory Issues

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PREFACE

About this Document

This Report has been created by faculty, students, and staff at the *Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities* (*Center*) with funding and personnel support from the Health Resources and Services Administration (HRSA) in Rockville, Maryland. This Report has three purposes:

1. To identify, discuss, and provide timely input to HRSA and its partners on the legal and regulatory issues that relate to or impact the development and implementation of the state-based Emergency System for Advanced Registration of Volunteer Health Professionals (ESAR-VHP), including emergency declarations; licensing, credentialing, and privileging issues; civil and criminal liability issues; and workers' compensation.

2. To examine and summarize areas of law relevant to ESAR-VHP, highlighting important legal issues and presenting timely and germane examples from existing law.

3. To present a framework for guidance that will inform the *Center*'s technical assistance to National Bioterrorism Hospital Preparedness Program (NBHPP) grantees throughout the testing and implementing phases of ESAR-VHP.

While the Report draws heavily from existing legal, public health, and medical scholarship, it adopts a decidedly practical tone and approach to attempt to explain and resolve legally complex issues for lay audiences. HRSA contracted with the *Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities (Center)* to create this Report. Although the information contained in this Report should be helpful to grantees and others, it does not constitute the official position of HRSA or of the Department of Health and Human Services (DHHS), nor does it constitute legal advice. Legal advice on the issues discussed in this Report is necessarily fact-specific and may vary depending upon state law, the nature of the grantee, and specific circumstances. For specific requests for legal advice, HRSA suggests that each grantee contact its state's Office of the Attorney General or its institution's legal counsel.

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Bloomberg School of Public Health, *Center* Associate Director; **Stephen P. Teret, J.D., M.P.H.**, Investigator, ESAR-VHP Legal and Regulatory Issues Project, Professor, Johns Hopkins Bloomberg School of Public Health, *Center* Director. Additional assistance in the research and drafting of the Report was provided by Georgetown and Johns Hopkins students, namely **Erin Fuse Brown,** J.D./M.P.H. Candidate; **Jessica O'Connell,** J.D./M.P.H. Candidate; Dru Bhattacharya, J.D., MPH Candidate; **Sara Kraner**, J.D./M.P.H. Candidate; and **Helaine W. Rutkow, J.D., M.P.H**., Ph.D. Candidate. Contributions and review were also provided by **Mary Beth Albright,** J.D. Candidate, **Rhya Marohn,** J.D. Candidate, **Maryham Pahlavan**, and **Katerina Horska**.

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Abbreviations

Throughout this document, the following abbreviations are used to denote the accompanying names, terms, or other items:

ABMS	American Board of Medical Specialties	MCO	Managed Care Organization
ACGME	Accreditation Council for Graduate Medical Education	MIMAL	Model Intrastate Mutual Aid Legislation
AHA	American Hospital Association	MNPA	Model Nurse Practice Act
AMA	American Medical Association	MOU	Memorandum of Understanding
ANA	American Nurses Association	MRC	Medical Reserve Corps
AOA	American Osteopathic Association	MSEHPA	Model State Emergency Health Powers Act

APN	Advanced Practice Nurse	NAAG	National Association of Attorneys General
ARC	American Red Cross	NACCHO	National Association of County and City Health Officers
ASPPB	Association of State and Provincial Psychology Boards	NAPHS	National Association of Psychiatric Health Systems
ASTHO	Association of State and Territorial Health Officials	NBHPP	National Bioterrorism Hospital Preparedness Program, HRSA, DHHS
Center	Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities	NBOME	National Board of Osteopathic Medical Examiners
CDC	Centers for Disease Control and Prevention, DHHS	NCLEX-RN	National Council Licensure Examination for Registered Nurses
CPQ	Certificate of Professional Qualification in Psychology	NCQA	National Committee for Quality Assurance
CVO	Credentialing Verification Organizations	NCSBN	National Council of State Boards of Nursing
DHCEP	Division of Health Care Emergency Preparedness, HRSA	NCSL	National Conference of State Legislatures
DHHS	Department of Health and Human Services	NEMA	National Emergency Management Association
DHS	Department of Homeland Security	NGA	National Governors Association
DMAT	Disaster Management Assistance Teams	NLC	Nurse Licensure Compact
EMAC	Emergency Management Assistance Compact	NVPA	National Volunteer Protection Act of 1997
EPPP	Examination for Professional Practice in Psychology	NIH	National Institutes of Health
ESAR-VHP	Emergency System for Advance Registration of Volunteer Health Professionals	NIP	National Immunization Program, CDC, DHHS
FDA	Food and Drug Administration, DHHS	NPDB	National Practitioner Data Bank
FEMA	Federal Emergency Management Association	OCR	Office for Civil Rights, DHHS
FOIA	Freedom of Information Act	OHRP	Office for Human Research Protections, DHHS
FSMB	Federation of State Medical Boards	OSHA	Occupational Safety and Health Administration
GME	Graduate Medical Education	PHSBPRA	Public Health Security & Bioterrorism Preparedness & Response Act of 2002
HCQIA	Health Care Quality Improvement Act	PPO	Preferred Provider Organization
HEICS	Hospital Emergency Incident Command System	PHSA	Public Health Service Act
HRSA	Health Resources and Services Administration, DHHS	RN	Registered Nurse
HSR	Human Subjects Research	SARS	Severe Acute Respiratory Syndrome
ICDDC	Interstate Civil Defense and Disaster Compact	SREMAC	Southern Regional Emergency Management Assistance Compact

IEMAC	International Emergency Management Assistance Compact	TCA	Tort Claims Act
HIS	Indian Health Service, DHHS	TPMSPHA	Turning Point Model State Public Health Act
IOM	Institute of Medicine	USMLE	United States Medical Licensing Examination
JCAHO	Joint Commission on Accreditation of Health Care Organizations	VAERS	Vaccine Adverse Event Reporting System
JCR	Joint Commission Resources	VHP	Volunteer Health Professional
LPN	Licensed Practical Nurse	VN	Vocational Nurse

1.0 INTRODUCTION AND EXECUTIVE SUMMARY

Following the terrorist attacks on September 11, 2001 and the ensuing anthrax exposures, the need to safeguard public health and safety took on new urgency and a renewed public saliency. National and state leaders, including health care and public health officials, focused on preparedness for public health emergencies and potential mass casualty events. Subsequent disasters like Hurricanes Katrina and Rita in the United States and elsewhere have reaffirmed the resolve of these leaders to improve capacity to prepare for and respond to public health emergencies. Given the potentially wide-ranging and unprecedented impacts of these events and their potential to cross jurisdictional borders, many public health preparedness initiatives have attempted to address multi-state and federal collaboration.

For federal, state, and local public health agencies, health professionals, and others that may find themselves on the frontline of a bioterrorism event or public health emergency, public health preparedness is a fundamental priority. Preparedness presupposes, however, that public health authorities are legally empowered to prepare for and respond to potential or actual public health emergencies. In the aftermath of 9/11 and the Gulf Coast hurricanes of 2005, understanding and strengthening the legal authorization for many of the public health powers needed to prepare for and counteract public health emergencies became a paramount concern throughout the public health system.

The *Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities* (*Center*) prepared (with multiple partners) the Model State Emergency Health Powers Act (MSEHPA) (available at http://www.publichealthlaw.net/Resources/Modellaws.htm). MSEHPA presents a modern synthesis of public health laws for controlling infectious diseases or other conditions during emergencies that balances public health needs with the rights and dignity of individuals. It has been widely used by state and local law- and policy-makers, health officials, and representatives in the private sector as a guide for considering reforms of existing legal protections.[1] Among many provisions, MSEHPA recognizes the need to utilize out-of-state and in-state VHPs by addressing issues such as advance approval of out-of-state licenses, verification, liability, and compensation concerns.

These (and other) issues concerning the use of VHPs during mass casualty events arose during the response of New York City hospitals to the 9/11 tragedy. Some hospital administrators in Lower Manhattan reported that they were unable to use health professionals because they could not verify their medical or other credentials. Administrators were unable to confirm volunteer physicians' identities or basic licensing or credentialing information, including training, skills, competencies, and employment. Disruptions to standard telecommunications prevented hospitals from contacting other sources that could have provided verification.

Congress passed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 in order to facilitate the effective use of VHPs during public health emergencies. Section 107 of the Act directs the HHS Secretary to create a program to develop an Emergency System for Advance Registration of Volunteer Health

Professionals (ESAR-VHP). HRSA has taken the lead in this program, and with its partners is in the process of preparing Technical and Policy Guidelines, and Standards and Definitions (Guidelines) for the states to use in developing their volunteer registration systems. Each state (and territory) system is to include readily available, verifiable, and up-to-date information regarding the volunteer's identity and licensing, credentialing, accreditation, and privileging in hospitals or other medical facilities that might need volunteers. The establishment of these standardized state systems will give each state the ability to quickly identify and better utilize VHPs in emergencies and disasters.

Organization and implementation of ESAR-VHP raises multiple legal issues and concerns. After conducting early focus group discussions on the project, HRSA asked the *Center* to apply its experience with the legal aspects of public health emergency preparedness to help identify and examine legal issues that may impact a state-based ESAR-VHP. This Report represents the culmination of the *Center's* efforts to date to ascertain relevant legal concerns and to provide insight into these issues to HRSA and its partners.

The sections that follow systematically outline the most pertinent areas of law that must be considered during the development, implementation, and utilization of an ESAR-VHP. **Section 2.0** of the Report provides a brief background of the origins of the ESAR-VHP project, chronicles the process that led to the involvement of the *Center* in this project and the development of this Report, and discusses the integration of the ESAR-VHP project with the Medical Reserve Corps.

Section 3.0 addresses key issues that may influence the creation and operation of ESAR-VHP through five major topical areas: 1) declaration of emergencies; 2) licensing, credentialing, and privileging of health professionals; 3) civil liability of volunteers, organizations, and system administrators; 4) workers' compensation coverage for volunteers and the corresponding responsibilities of their employers or hosts; and 5) potential criminal liability of volunteers or organizations. Other legal issues, including health information privacy, volunteers' right to reemployment, tribal government issues, and the use of memoranda and agreements to facilitate interstate exchanges of personnel and other resources are also briefly discussed. Salient issues are presented within each topical area, as summarized below.

Emergency Declarations. State laws empower government officials to declare an emergency for varied disasters and public health crises. Often the declaration of an emergency grants additional powers and duties to the governor as well as emergency management, public health, or public safety authorities. Prior to the development and use of MSEHPA, most states did not statutorily define "public health emergency," nor provide for specific declarations of a state of public health emergency. As such, no clear plan existed regarding emergency planning and response actions that should be taken specifically in the interest of the public's health.

By contrast, nearly every state has developed a legal structure for declaring a "general emergency" or "disaster" and related emergency management functions. In states that have defined "general emergency" and "public health emergency," there is the

potential for legislative confusion and duplication because these definitions typically share common components. The broader concept of a general emergency or disaster may include factors that many would consider public health emergencies. As a consequence, the governor and state agencies could be required to decide whether an emergency that may impact the public's health is a general emergency or a public health emergency. The dilemma concerning dual, overlapping declarations exceeds mere semantics: depending on the declaration, the legal landscape for emergency responses and protections changes. Thus, different state or local agencies may be legislatively or administratively responsible for coordinating simultaneous responses depending on the type(s) of emergency declaration.

In addition, emergency declaration laws have been used to specifically provide for the use of volunteers to assist in emergency response efforts. Some states have chosen to incorporate the authorization of their volunteer registries into their emergency powers legislation, thus linking the registries to other emergency legal measures.

Licensing, Credentialing, and Privileging. Licensing, credentialing, and privileging comprise a regulatory framework designed to impose and maintain quality-control in the provision of health care. Professional licensing requirements for health care professionals are rooted in state law. Each state has its own system of regulating professional licensure. Typically, licenses only apply within the state where they are granted. State professional regulation requirements establish a set of minimum competencies and prerequisites for entry into each health care profession, create mechanisms to grant licenses to appropriately qualified professionals, and establish the scope of practice for the professions. Credentialing and privileging standards are also required by law in some jurisdictions, which have enacted detailed requirements for compliance with these standards. Generally, state law requires hospitals to adopt procedures regarding the credentialing and privileging of physicians through medical staff bylaws. Other health care professionals may also undergo credentialing, and in some cases, privileging depending on the location and local requirements.

Various laws, compacts, agreements, and policies allow for waiver or reciprocity of licensure, credentialing, and privileging. Many emergency statutes and compacts permit explicit waivers of licensure and credentialing requirements during a declared emergency. Other legal provisions authorize limited license reciprocity even when an emergency has not been declared. Furthermore, hospitals and other health care entities must provide for temporary and disaster privileging pursuant to JCAHO requirements.

Civil Liability. Civil liability is one of the most pervasive and contentious issues affecting the modern health care delivery system. Civil liability may arise in many contexts when patients are injured, harmed, or killed during emergency responses. The law must determine who, if anyone, should compensate patients for their injuries. Civil liability may result from the actions of virtually all of the participants in ESAR-VHP: VHPs, health care entities that provide or accept volunteers, and even those administering an ESAR-VHP. As a result, understanding the applicability and the limits of civil liability with regard to specific actions and categories of persons or entities is important.

Major theories of civil liability include negligence (which underlies most medical malpractice claims), breach of privacy, intentional or negligent infliction of emotional distress, and misrepresentation. VHPs may face civil liability for negligently providing medical care and treatment during an emergency. Health care organizations may face liability for their own negligent actions or through what is known as "vicarious liability," (i.e., liability for the actions of their employees and potentially for the actions of volunteers).

Federal, state, and local governments offer VHPs some degree of protection (or immunity) from civil liability, but these protections vary under several sources of law. Statutory and constitutional limits on civil liability for normal volunteer practices may derive from (1) volunteer protection statutes or (2) governmental immunity provisions (if the volunteer is a government employee or agent). During emergency situations, additional legal sources of immunity may be available, including (3) Good Samaritan statutes; (4) emergency statutes; and (5) mutual aid compacts. Thus, immunity for some may be quite broad. Volunteers who are (1) government employees, (2) uncompensated for their work, or (3) helping during a declared emergency may be immune on several grounds. Health care entities may also receive immunity from civil liability, but in many jurisdictions, individual immunity protections do not apply to health care entities. Governmental immunity may protect administrators of an ESAR-VHP from liability if the government is running the system.

Workers' Compensation. Workers' compensation is a government administered system for providing limited benefits to victims of work-related injuries or death, regardless of fault. Each state (and the federal government) has enacted workers' compensation laws, which require work-related injuries to be reported and compensated in accordance within specific rules. The application of workers' compensation benefits to VHPs (who may predictably be injured in response to emergencies) raises several specific challenges. First, workers' compensation laws only cover "employees" and thus exclude unpaid volunteers or gratuitous workers. States may legislatively extend explicit coverage to certain volunteer workers. However, absent such provisions, the default is to exclude these workers from coverage.

A second major challenge concerns determining who is "employing" volunteers during an emergency. Without knowing the location, type, or magnitude of an emergency, it is difficult to establish which entity will be considered the volunteer's employer and which state's laws (or federal law) will apply if the volunteer leaves his or her regular place of employment or crosses state lines to provide services. In many jurisdictions, the existing employer is not likely to be liable for injuries its employees sustain volunteering services elsewhere if the employees' actions are outside the course of employment with the existing employer. Some states' laws suggest that VHPs are considered to be state employees for the duration of an emergency. In the event that a statute defines VHPs as employees, but does not define the state or municipality as the employer, it is possible that the hospital or institution for which the VHPs are temporarily working could be considered the employer for workers' compensation purposes.

Criminal Liability. Criminal responsibility of an individual volunteer will be determined by the elements of the crime he or she is alleged to have committed, as

defined by state or federal law. As with civil liability, some state or federal laws may potentially insulate an individual from criminal responsibility. However, the scope and applicability of immunity from criminal liability is more restricted than civil liability.

State laws do not explicitly offer immunity from criminal liability. Two factors substantially limit the value of immunity in the context of criminal liability: 1) most state statutes that provide for civil liability protections do not extend to criminal acts; and 2) even in the case of civil liability, each state expressly removes from the scope of protection—under standards that vary from state to state—conduct that is willful, malicious, reckless, wanton, or intentional. Many acts that would trigger criminal liability may fall within these criteria.

Admittedly, these legal issues may not be simple to resolve in any state or jurisdiction implementing ESAR-VHP. To help assess these issues, the Report presents a universal checklist of legal issues in **Section 4.0**. The checklist provides those responsible for the creation, operation, and maintenance of an ESAR-VHP with a working tool to quickly assess their legal preparedness. Though helpful as a guide, the checklist is not meant to substitute for official legal advice. Legal advice on the issues identified in the checklist is necessarily fact-specific and may vary depending upon state or local law, the nature of the grantee, and the specific circumstances involved. For specific requests for legal advice, HRSA suggests that each grantee contact its state's Office of the Attorney General or its institution's legal counsel.

2.0 BACKGROUND ASSESSMENT OF ESAR-VHP

As noted above in Section 1.0, Congress passed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 in order to facilitate the effective use of volunteer health personnel during public health emergencies. Section 107 of the Act directs the HHS Secretary to "establish and maintain a system for the advance registration of health professionals, for the purpose of verifying the credentials, licenses, accreditations, and hospital privileges of such professionals when, during public health emergencies, the professionals volunteer to provide health services." In response, HRSA has created the Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) Program. The ESAR-VHP program goal of assisting states to develop their emergency registration systems will be implemented via the grant program administered through the National Bioterrorism Hospital Preparedness Program (NBHPP) and successful implementation of ESAR-VHP will be a condition of receiving grant funding under NBHPP.

Since its inception in April 2004, the ESAR-VHP Program has determined its mission and set its goal of helping states develop their VHP registration systems. In May 2004, HRSA's Division of Health Care Emergency Preparedness (DHCEP) convened a Focus Group to help identify and assess ESAR-VHP development and implementation issues. This meeting brought together experts in medical, public health, legal, technical, and other key areas in emergency preparedness and response. The members of the Focus Group set an agenda for the development and implementation of guidelines and standards. Throughout this initial Focus Group meeting, legal issues relevant to the ESAR-VHP initiative continually arose during discussions. This prompted HRSA to initiate an effort to contemporaneously develop guidance relating to legal and regulatory issues along with the development of ESAR-VHP guidelines and standards. In September 2004, the *Center* was asked by HRSA to undertake the legal component of the ESAR-VHP project.

Subsequently, the ESAR-VHP Program has moved forward to develop guidelines, standards, and definitions that will be shared with the 62 NBHPP grantees. The information has already been provided in NBHPP Continuation Guidance, initially released in June 2005. In addition to the guidelines, states will receive supplemental funding, as well as technical assistance, to support the development of their systems.

Though HRSA is leading efforts and providing funding for the development of ESAR-VHP, the system is completely state-based. States are responsible for designing, developing, and administering their respective systems consistent with guidelines provided by HRSA and its partners. Thus, ESAR-VHP is not a federal system, but rather a national system of state-based emergency volunteer registries.

During the course of the ESAR-VHP project, which continues through December 2006, HRSA will periodically convene additional Focus Group meetings. In order to more completely develop our understanding of all of the relevant legal issues applicable to ESAR-VHP, the *Center* will also participate in these scheduled Focus Group or other HRSA-sponsored meetings or teleconferences to discuss research, findings, technical assistance, and the content of this Report.

2.1 Major Project Components of ESAR-VHP

Several coordinated and simultaneous efforts are ongoing to develop and implement guidelines for ESAR-VHP. In addition to the *Center's* Legal and Regulatory Issues Project described in this Report, these efforts include:

- Technical and Policy Guidelines, Standards, and Definition Development Support Project (Guidelines): a project focused on guidelines, standards, and definitions development support for the entire spectrum of advance registry development, operation, implementation features, and issues. These assessments will include design and content, credentialing and privileging, training, operations and maintenance, communications, security and privacy, authorities, emergency operations, recruitment, costs and funding, and regionalizing and nationalizing the state-based ESAR-VHP; and

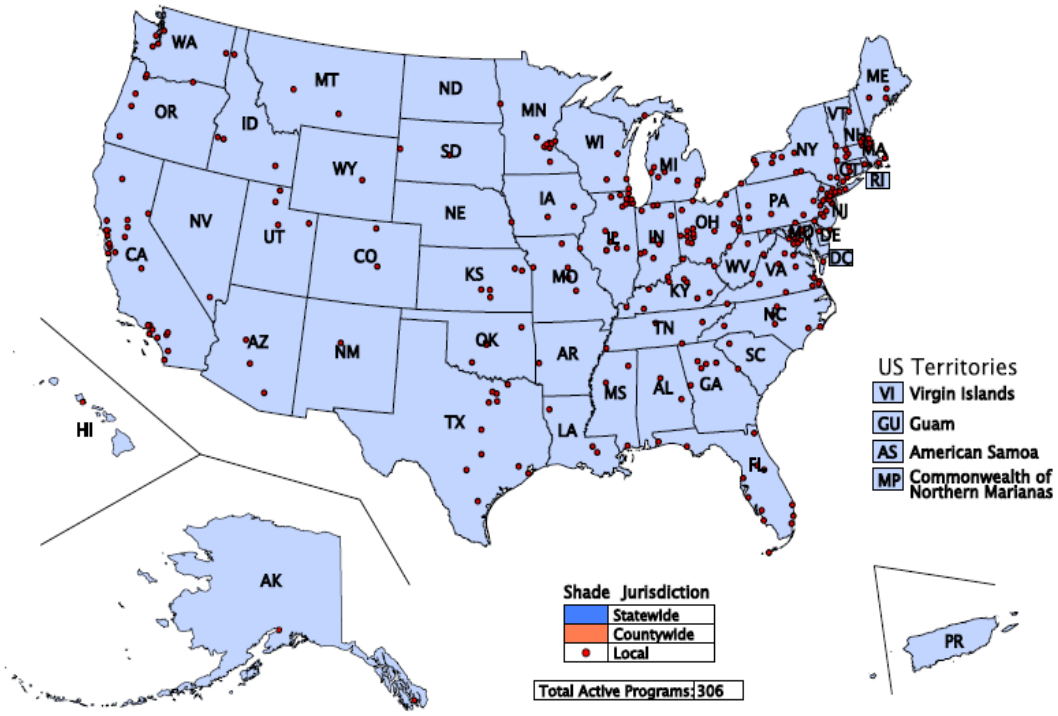
- Hospital Issues Project: a project to identify and discuss ESAR-VHP options for addressing development and implementation issues for hospitals.

Where applicable, this Report references the work and conclusions of the other ESAR-VHP component projects. To ensure that the work of each project is fully integrated in the other efforts, and to assist in project direction and report review, HRSA directed that a Project Advisory Group (PAG) be established for each project. Each PAG includes specific experts selected for each project, as well as representatives from other projects. The *Center's* PAG, for example, includes legal and policy experts at the federal, state, and local levels as well as key personnel from the Guidelines and Hospital Issues projects.

2.2 The Role of the Medical Reserve Corps and ESAR-VHP

In establishing state-based emergency volunteer registries, a critical objective of the ESAR-VHP Program is to facilitate its integration with existing state-based programs and initiatives, notably the Medical Reserve Corps (MRC). The MRC was created as a community-based and specialized component of the Citizens Corps, part of the USA Freedom Corps initiative launched in January 2002. The purpose of the MRC is to pre-identify, train, and organize volunteer medical and public health professionals to render services in conjunction with existing local emergency response programs. At present, there are over 408 MRC units across the nation located in ten regions, each with its own coordinator (see Figure 1 below). In addition, each state retains its own coordinator to facilitate intrastate activities. Some states have incorporated explicit provisions of their emergency powers to address the role of MRC units during a declared emergency and the potential liabilities arising from services rendered. Where applicable, this Report shall cite examples to highlight key points with respect to their role as an existing program contemplated under ESAR-VHP (See Section 3.3.1.4, Section 3.4, and Section 3.6.4).

Figure 1. Distribution of MRC Units in the United States and Its Territories.



Source: Medical Reserve Corps
Resource Site *available at* http://www.medicalreservecorps.gov/index.cfm?MRCaction=MRCunit.Contact

2.3 Parameters of the ESAR-VHP Legal and Regulatory Issues Project

The ESAR-VHP Legal and Regulatory Issues Project is comprised of three phases that correspond to the timing and functions of the phases set by HRSA for the larger project. The *Center's* assessment and initial draft of its Report (February 2005) was produced during Phase I of the project, (August 30, 2004 to June 30, 2005). The initial draft focused on the initial pilot testing of ESAR-VHP in ten selected jurisdictions (CT, DC, IL, MA, MN, MO, OH, TX, WV, WI), which also occurred during Phase I, beginning in January 2005. The next version of the Report (September 2005) was modified to include twenty additional states in Phase II of the project (AL, CA, FL, GA, HI, MD, MI, NC, NE, NH, NJ, NM, NV, NY, OK, OR, PA, VA, WA). This version (May 2006) includes specific analysis for all fifty states within Phases I, II, and III of the project. . The *Center* also provides technical assistance to Phase I-III states and participates in additional Focus Group or other HRSA-sponsored meetings to discuss the legal and regulatory issues that may impact or relate to the development and implementation of the ESAR-VHP.

3.0 COMPREHENSIVE ASSESSMENT OF LEGAL AND REGULATORY ISSUES

While there are many approaches that may be taken to assess the legal issues underlying ESAR-VHP (and comparable registry systems of volunteers in the United States), this Report attempts to develop a legal framework through which these systems may be analyzed in each state. At the initial stage of the project's development, the *Center* produced and vetted a blueprint outline of these major topics, seeking input on the scope and relevance of the major categories. Based on this input and additional research and knowledge of the authors, Legal PAG members, and other partners, the following major categories of legal issues are addressed:

- State statutory/administrative authority for **declaring a public health emergency or general state of emergency** for which the volunteer registry could be used, including a review of the declaration procedures of the *Center*'s MSEHPA (which many states have used to establish definitional and declaratory criteria for public health emergencies) (see Section 3.1);

- **Licensing, credentialing, and privileging** of health personnel pursuant to state statutory laws and the requirements of credentialing entities. Although the concepts of licensing, credentialing, and privileging are grouped within this category, they are in fact discrete legal concepts that carry distinct consequences for ESAR-VHP (see Section 3.2);

- The potential for VHPs, health care entities providing or accepting volunteers, or entities administering the ESAR-VHP to face **civil liability** for actions taken before, during, and after an emergency, including the extent to which federal and state laws may provide immunity or indemnification from civil liability for specific actors. Various theories of liability are neatly discussed that relate to volunteers, health care entities that provide volunteers, and health care entities that accept volunteers during emergencies. Also addressed is the degree to which compacts (e.g., EMAC), contracts, or mutual agreements (e.g., MOUs, MOAs) may resolve potential liability issues (see Section 3.3);

- Federal or state **workers' compensation** issues for volunteers (paid and unpaid) concerning the compensation of work-related injuries by the volunteers' employer (outside of the emergency) or the volunteers' host during an emergency (see Section 3.4); and

- Potential **criminal liability** and immunity of health personnel or health care entities that provide or accept volunteers related to actions of criminal negligence or other behaviors during or after a declared emergency (see Section 3.5).

Section 3.6 briefly addresses some additional legal issues that do not necessarily fit within these broad categories, including (1) health information privacy concerns; (2) rights of persons who volunteer to provide services during emergencies to continue employment with their existing employer after the emergency subsides; (3) tribal law

issues; and (4) the use of memoranda and other agreements within ESAR-VHP systems. Other legal issues may be included within this section as they are identified.

These varied issues are discussed and applied to assist a variety of persons who may be impacted or interested in the legal ramifications of ESAR-VHP, including federal, state, and local public health professionals and practitioners, hospital administrators, health care workers (e.g., physicians, nurses, lab technicians), public health and health care attorneys, and administrators of ESAR-VHP systems. Given variances in the complexity, scope, and comprehension of these legal issues, this Report tries to employ a general tone and perspective. Legal issues are explained in lay terms that are coupled with sufficient information for legal professionals representing organizational, institutional, or personal clients. A corresponding checklist (see Section 4.0), further organizes these issues to provide a working tool for any individual to use to assess specific legal issues.

3.1 Emergency Declarations

3.1 Summary Points

- In planning for and responding to emergency situations, it is critical that state and local governments have strong public health infrastructures. Many states have updated their emergency response laws to address public health emergency issues in accordance with the *Center*'s Model State Emergency Health Powers Act (MSEHPA).
- Upon a finding that a public health emergency may exist, MSEHPA delineates specific procedures that must be followed by a governor (or other primary political authority) to declare a state of public health emergency. Many states have adopted similar procedures under their state emergency laws.
- Once a state of public health emergency has been declared, the legal landscape changes. MSEHPA and many state public health emergency laws grant specific emergency powers to facilitate emergency response efforts. This may include the waiver of state licensing requirements for health care providers from other jurisdictions who are needed for emergency response efforts.
- While some states do not statutorily or administratively define "public health emergency," nearly every state has developed a legal structure for declaring a "general emergency" or "disaster" and related emergency management functions.
- In states that have defined "general emergency" and "public health emergency," there is potential for legislative confusion and duplication to the extent that these definitions typically share common components. Determining whether an emergency that may impact the public's health is a general emergency or a public health emergency may be complicated in these jurisdictions.
- States that statutorily define the term "volunteer" within an emergency management context could implicate a wide range of professions, risks, and liabilities. Health care professionals working as volunteers may need more specific protections that are not statutorily provided through general emergency management provisions.
- Some states have implemented ESAR-VHP through their emergency health powers laws, allowing these systems to supplement other emergency response measures.

Federal, state, and local government agencies have historically devoted substantial resources to emergency and disaster planning. However, the terrorist attacks

on September 11, 2001 and the ensuing anthrax exposures heightened awareness regarding the need for a strong public health infrastructure in planning for and responding to emergency situations. For state and local public health agencies that may find themselves on the front-lines of response to public health or other emergencies, preparedness is a major focus. Advance planning is critical for emergency preparedness, but such planning presupposes that public health authorities are legally empowered to respond to potential or actual bioterrorist threats. Prior to 9/11, however, many states lacked modern, specific legal standards to facilitate effective and efficient emergency response.

In the Fall of 2001, the *Center* drafted a model law, the Model State Emergency Health Powers Act (MSEHPA), to provide state and local governments with a tool for reviewing existing emergency powers laws and develop potential legislative or other regulatory reforms. Developed in collaboration with CDC and multiple national partners,[2] MSEHPA presents a modern synthesis of public health laws for controlling a host of conditions during emergencies that balances public health needs with the rights and dignity of individuals.[3] Many state legislatures have subsequently introduced or adopted some or all of the model provisions found in MSEHPA in their own states. As of April 15, 2006, MSEHPA's provisions have been introduced in whole or part through legislative bills or resolutions in 44 states, the District of Columbia, and the Northern Mariana Islands, and passed in 37 states and the District of Columbia.[4]

As explained in subsections below, prior to the development and use of MSEHPA's model provisions by states, most states did not statutorily define "public health emergency," nor provide specific declarations of a state of public health emergency. As such, no clear plan existed regarding emergency planning and response actions that should be taken specifically in the interest of the public's health. Often, in the event of a general emergency or disaster, state statutes grant additional powers and duties to the governor and to emergency management or public safety authorities. In the event of an emergency, these officials may lack the knowledge, training, or ability to direct or perform necessary public health functions (e.g., vaccination, quarantine, isolation, treatment). Without authorization from the legislature, public health officials may not be authorized to perform these functions to appropriately respond to bioterrorism or other threats, even though they typically possess these powers outside of emergency settings.

MSEHPA responds to these and other issues through provisions that address major public health functions that could impact a public health emergency: (1) preparedness, (2) surveillance, (3) management of property, (4) protection of persons, and (5) communication. It vests public health authorities and public officials with powers and duties to engage in effective preparedness and planning prior to an emergency, as well as respond to declared public health emergencies (as defined in the Act).[5] Table 1, below, provides a synopsis of the organization and substance of the varied sections of MSEHPA.

Table 1. MSEHPA Table of Contents

ARTICLE I	**TITLE, FINDINGS, PURPOSES, AND DEFINITIONS**
Section 101	Short title

3.1.1 Public Health Emergencies

MSEHPA Article IV provides for the declaration of a state of public health emergency. Under this section, a governor may declare a state of public health emergency if certain conditions are met, and must consult with state public health authorities prior to issuing a declaration, unless the resulting delay would endanger the public's health. MSEHPA regulates the content of the declaration, the effect of the declaration on emergency powers and response, and its termination.[6] This framework allows the statutory incorporation of specific public health powers and duties that may not be applicable to general emergencies or disasters, and requires input from public health authorities regarding the nature of the emergency and an appropriate response.

"Public health emergency" is defined as "an occurrence or imminent threat of an illness or health condition that:

(1) is believed to be caused by any of the following: (i) bioterrorism; (ii) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; *(iii) a natural disaster; (iv) a chemical attack or accidental release; or (v) a nuclear attack or accident*; [*italicized* language suggests optional language for consideration by states]; and

(2) poses a high probability of any of the following harms: (i) a large number of deaths in the affected population; (ii) a large number of serious or long-term disabilities in the affected population; or (iii) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population."[7]

This definition intentionally sets a high threshold for what may constitute a public health emergency. Many states have legislatively based their respective definitions of "public health emergency" on its conception in MSEHPA. Others have chosen not to specifically define public health emergencies, or have not yet considered legislative or regulatory reforms. Appendix A lists specific legislative definitions of public health emergencies Phase I-III states. Of these jurisdictions, 24 have statutory definitions of a public health emergency or similar terms. The remaining states have not yet statutorily defined any "public health emergency" or similar terms.

Upon a finding that a public health emergency may exist, MSEHPA delineates a specific procedure that must be followed by a governor (or other primary authority) to declare a state of public health emergency. Figure 2, below, demonstrates the criteria and procedures for declaring a state of public health emergency. First, existing conditions must meet the standards set forth through the Act's definition of public health emergency.[8] Second, the governor must consult with the state's public health authority or other public health experts before issuing a declaration, unless the resulting delay would endanger the public's health given the conditions at hand.[9] Third, the governor may issue a public health emergency declaration, which must contain specific information, including the nature of the emergency, the political subdivision(s) or geographic area(s) subject to the declaration, the conditions causing the public health

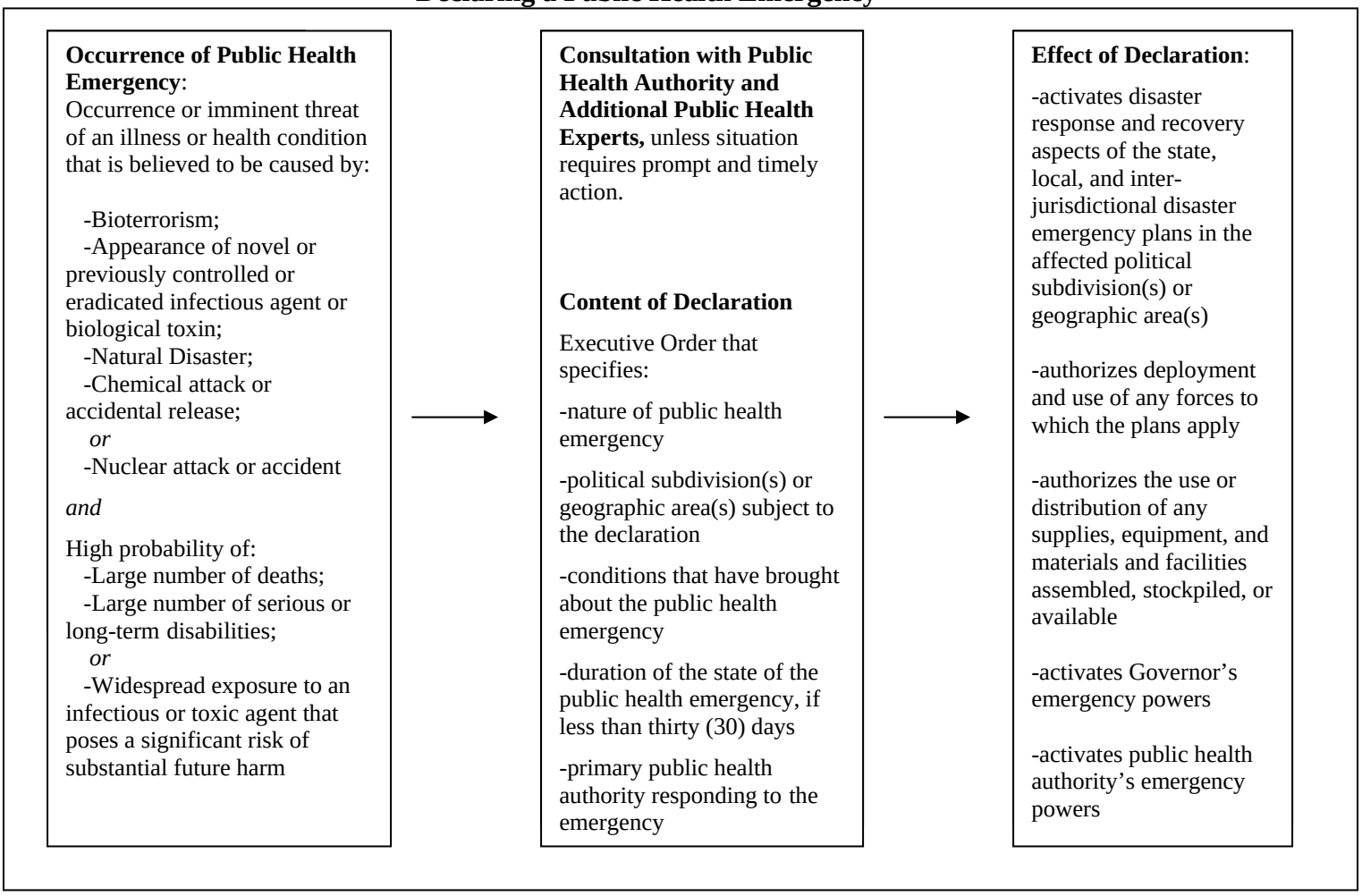
emergency, the duration of the declaration (if less than thirty days), and the primary public health authority overseeing the emergency response.[10]

Once a state of public health emergency has been declared, MSEHPA grants the governor specific emergency powers, including the suspension of ordinary state rules and regulations and the utilization of available resources within the state government, to facilitate emergency response efforts. [11] Additionally, MSEHPA vests state (or local) public health agencies with responsibility for responding to the emergency through a host of public health powers to manage property and protect persons.[12] This includes the waiver of state licensing requirements for health care providers from other jurisdictions who are needed for emergency response efforts.[13]

These waiver provisions have the potential to impact the administration of volunteer health registries on several levels. First, the ability of the governor or public health authority to waive licensing requirements for out-of-state providers in the event of an emergency expands the population from which volunteers can be identified and registered to providers from other jurisdictions or states. Additionally, the power of the governor to suspend various legal requirements and provisions during an emergency enables the governor to, if necessary, waive any health care professional licensing or credentialing requirements that exist on a state or local level. This may facilitate the process through which volunteers are identified, contacted, and appointed, especially when health care providers from many different jurisdictions with a range of licensing requirements are called upon to assist in responding to an emergency.

The governor can terminate a declaration of a state of public health emergency through an executive order once the threat has been abated. Absent an executive order, a declaration is terminated automatically after thirty days.[14]

Figure 2. MSEHPA Criteria and Procedures for Declaring a Public Health Emergency



Many states have utilized this framework in MSEHPA as a basis for developing their own processes for declaring public health emergencies. For example, in the District of Columbia, once the mayor has declared a general public emergency, he or she may issue an additional executive order to declare a public health emergency. This executive order must specify certain information (e.g., geographic areas subject to the declaration, nature and extent of the public health emergency) similar to that required by MSEHPA. In addition, the executive order may (1) require health care providers within the District to reasonably assist with the emergency response, (2) exempt licensed health care providers from civil liability for damages, and (3) waive health care provider licensing requirements.[15]

Illinois has similar provisions that allow for the waiver of licensure requirements for health professionals during a declared public health emergency. The Illinois statute provides for the suspension of temporary or permanent licensure requirements and the modification of the scope of practice restrictions for health professionals licensed in another state who are working under the supervision of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared emergency.[16]

Wisconsin allows its governor to proclaim a state of emergency, and, under certain conditions, to declare a state of emergency related to public health. The governor may designate the Department of Health and Family Services as the lead state agency in coordinating a public health response. If the governor doesn't do so, the lead state agency in public health emergencies is the Department of Military Affairs, which is the lead state agency for all other emergencies declared by the governor.[17] In a public health emergency, the governor has the authority to suspend any administrative provisions that would prevent or hinder emergency response efforts and increase the threat to the public's health.[18] In contrast to MSEHPA, however, Wisconsin law does not delineate a specific procedure for the declaration of a public health emergency, and does not require that the governor seek input from public health authorities in making a declaration.

Other states have developed different processes through which public health needs can be addressed in emergency situations without declaring a public health emergency. For example, in Texas, the governor can declare a state of disaster by executive order or proclamation. Under Texas law, the definition of disaster includes the occurrence or imminent threat of injury or loss of life resulting from a natural or man-made cause, conditions that could also indicate a public health emergency. The executive order or proclamation issued by the governor must describe the nature of the disaster.[19] During the emergency response, the governor is permitted to utilize the services of all state agencies and boards with emergency responsibilities.[20] Thus, while the governor is not specifically authorized to declare a public health emergency, he or she is able to utilize state public health resources when necessary to protect the public's health.

3.1.2 General Emergencies

While some states do not statutorily or administratively define "public health emergency," nearly every state has developed a legal structure for declaring a "general emergency" or "disaster" and related emergency management functions. Appendix B lists statutory definitions of emergency or disasters for each of the Phase I-III states.

What constitutes an emergency may be linked to the state's definition of disaster. Typically, the definition of a general emergency is a broader standard including any event or occurrence (e.g., a natural disaster, fire, civil disorder) that immediately threatens the public's health and/or safety. Many states' processes for declaring a general emergency are incorporated into similar processes for declaring a public health emergency, and typically invoke comparable powers and duties that aim to protect the public's health and safety. Even among states that have not delineated a specific process through which a public health emergency can be declared, consideration for the public's health may still be required by provisions authorizing the declaration of a general emergency.

For example, Massachusetts does not statutorily define public health emergency. However, its laws allow the governor to declare an emergency and to specifically state that it is detrimental to the public's health. Upon such a declaration, the commissioner of the Commonwealth's Department of Public Health is able to take action, as necessary, to prevent the spread of disease and to assure the maintenance of the public's health.[21] Similarly, "public health emergency" is not specifically defined in California laws or

administrative regulations. However, conditions of a state of emergency or local emergency include epidemics and disease.[22]

Some states define different types of emergencies and disasters, which carry with them different governmental powers. For example, Florida categorizes types of disasters based on their severity: defining "catastrophic," "major," and "minor" disasters. A catastrophic disaster is the most severe and will often require massive state, federal, and military involvement for an effective response. A major disaster is one that "will likely exceed local capabilities and require a broad range of state and federal assistance." A minor disaster is the least severe, and can generally be managed within the capabilities of local governments with only minimal state or federal involvement.[23] Many states, including Oklahoma, Pennsylvania, Virginia, and Wisconsin differentiate between man-made and natural disasters.[24]

3.1.3 Dual Declarations

In states that have defined "general emergency" and "public health emergency," there is potential for legislative confusion and duplication because these definitions typically share common components. The broader concept of a general emergency or disaster may include factors that many would consider public health emergencies. As a consequence, the governor and state agencies could be required to decide whether an emergency that may impact the public's health is a general emergency or a public health emergency. This choice may be further confused by the use of similar terminology in both conceptions of emergencies. In the District of Columbia, for example, a public (general) emergency may be declared for an outbreak of a communicable disease that threatens or causes damage to life, health, or property.[25] A public health emergency could similarly be declared for widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people.[26] The definitional criteria for either emergency clearly overlap. To avoid some confusion, D.C. law requires that a public emergency must be declared before a public health emergency declaration.

Additionally, dual definitions present different thresholds for the declaration of a state of emergency. The threshold of what constitutes a public health emergency is, in some states, legally more precise than what may amount to a general emergency. This may provide an incentive for the governor to choose to declare a general state of emergency under a lower threshold even when circumstances suggest the need for a public health emergency response.

The dilemma concerning dual, overlapping declarations exceeds mere semantics: depending on the declaration, differing state or local agencies may be legislatively responsible for coordinating responses. In many states, public health authorities are responsible for managing a public health emergency, while public safety or emergency management authorities are responsible for responding to general emergencies. Dual emergency declarations could trigger the responses of multiple state agencies that result in potentially conflicting powers and duties. For example, in 2001, Minnesota adopted MSEHPA's definition of a public health emergency.[27] The inclusion of this definition within the existing emergency management structure resulted in confusion regarding

which public authorities would be responsible for managing emergency response efforts. When the law establishing this definition expired on August 1, 2005, the state legislature opted not to renew it.[28] In the absence of legislative action, advance emergency planning at state and local levels may significantly eliminate the potential conflicts created by dual declarations. Many states have engaged effective planning, communication, and relationship building to adequately prepare for all types of emergencies.

Even with adequate planning, legislative or administrative designations of an emergency as "general" or "public health" implicate health care professionals who may be working or serving as volunteers in the emergency response effort. MSEHPA's model provisions, for example, waive certain licensing and certification requirements in the event of a public health emergency; a similar waiver might not be statutorily permitted during a general emergency. Additionally, general emergency declarations can trigger an authorization for the use of a variety of volunteers during an emergency response, including health care providers, firefighters, urban planners, military personnel, and law enforcement personnel.

States that statutorily define the term "volunteer" within an emergency management context could implicate a wide range of professions, risks, and liabilities. Appendix C provides a summary of state legislative definitions of "volunteer" for emergency settings in each of the ESAR-VHP Phase I-III states. The declaration of a public health emergency, however, would require assistance from a more specific class of volunteers within the health care system. Health care professionals working as volunteers may need more specific protections that are not statutorily provided through general emergency management provisions.

3.1.4 Legislative and Regulatory Approaches Concerning Volunteer Registries

Establishing a legal framework to govern volunteer registries can be accomplished in a number of different ways. Some states have chosen to provide for the creation of these registries through legislation and administrative regulations. For example, Oregon established, via statute, a registry of emergency health care providers who are available to provide volunteer health care services during an emergency.[29] As a part of the registry, each health care provider is required to carry an identification card with information regarding their identity, licensure, and usual area of practice.[30] Oregon Administrative Rules govern the actual administration of the system including how registrants can be activated, the ability of emergency health care centers to utilize registrants, privileging procedures for emergency health care centers, coordination with local health departments and health care centers, and training for registrants.[31] The regulatory organization of Oregon's Registry of Emergency Health Care providers is detailed below in Figure 3. The legislation creating the registries is carefully integrated into the state's emergency management legislation, thereby providing a comprehensive legal framework for the systems and legal clarity as to their implementation and use.

Figure 3. Oregon's Regulatory Organization of the Registry of Emergency Health Care Providers

EMERGENCY HEALTH CARE SERVICES
333-003-0100 Scope
333-003-0105 Definitions
333-003-0110 The Health Care Provider Registry
333-003-0115 Registration with the Department
333-003-0120 Health Care Providers Not Included in the Registry
333-003-0125 Activation of Registrants
333-003-0130 Emergency Health Care Centers; Emergency Operations Plan
333-003-0135 Cooperative Agreements Between the Department and Local Public Health Authorities to Designate Emergency Health Care Centers
333-003-0140 Training

These numbers and titles refer to sections of the Oregon Administrative Rules.

Others states, including Connecticut and Wisconsin, have chosen to use administrative frameworks to establish their volunteer registries and emergency credentialing programs. In Connecticut, the program is overseen by the Department of Public Health, which works with the program's administrator, Yale-New Haven Health System (the state's largest health system).[32] Hospital participation in the system is accomplished through Hospital Participating Agreements, which 31 of the state's 32 hospitals have signed with the Department of Public Health.[33] Wisconsin's disaster credentialing program is "a web-based system that allows for real-time primary source verification of credentials and access to the hospital affiliation information of physicians."[34] The program is administered by the state's Department of Health and Family Services, Division of Public Health.[35] The program works in conjunction with state hospitals to verify the credentials of health care professionals included in Wisconsin's Emergency Assistance Volunteer Registry (WEAVR).[36] It operates with hospitals, many of which have agreed to provide statements of hospital affiliation and privileges to the system to verify the privileging status of the volunteers.[37]

3.2 Licensing, Credentialing, and Privileging of Volunteer Health Professionals and Health Care Entities

3.2 Summary Points

- Licensing, credentialing, and privileging allow for evaluation and certification of the skills, education, experience, and training of health care professionals.
- Licensing, credentialing, and privileging requirements may limit the ability of health care professionals to volunteer in other jurisdictions or health care facilities during an emergency.
- State professional licensing requirements establish a set of minimum competencies and prerequisites for entry into each health care profession, create mechanisms to grant licenses to appropriately qualified professionals, establish the scope of practice for the professions, and provide for disciplinary actions for violations.
- Health care professionals who hold valid, unrestricted licenses or certifications may practice or volunteer throughout the state in which their license is granted without restrictions or penalty, provided that they are acting within their licensed scope of practice. Professional licenses or

certifications do not usually entitle health care professionals to practice or volunteer outside the state where they are licensed.

- Engaging in the unlicensed practice of a health care profession may subject the practitioner to civil or criminal charges, significant fines, and prison sentences. Persons or entities engaged in the facilitation of unlicensed practice may also face civil or criminal liability, or other penalties.

- Some state laws authorize exceptions to licensure requirements that allow health care professionals licensed in another state to practice in the state during emergencies. Emergency statutes or reciprocity agreements may waive licensing requirements for the duration of a declared emergency.

- Credentialing and privileging are instrumental to determining the skills and competencies of health professionals and establishing the professional relationship between health professionals and specific health care facilities. Most health care entities require health professionals to be credentialed (satisfying general standards of competency) and may require privileges (specific to each facility) in order to practice.

- Exceptions to credentialing and privileging requirements may be authorized under emergency statutes or agreements, or they may be agreed upon in advance through mutual aid agreements and memoranda of understanding. Furthermore, many health care entities follow JCAHO standards concerning disaster privileges or temporary privileges that may be granted during an emergency.

The health care system (and increasingly public health systems) utilizes the processes of licensing, credentialing, and privileging to evaluate and certify the skills, education, experience, and training of health professionals. Likewise, these processes help to regulate the authority of health professionals to provide patient care, treatment, or services within a health care organization or entity. Together they comprise the foundation of an evolved and diverse regulatory framework that seeks, among other things, to impose quality-control in the provision of health care.[38]

Professional licensing requirements for health professionals are rooted in state law. State statutes and regulations establish a set of minimum competencies and prerequisites for entry into each health profession, create mechanisms to grant licenses to appropriately qualified professionals, and establish the scope of practice for each profession. Typically, licensed health professionals may practice their professions anywhere within their license-issuing state, but not outside the state. However, efforts increasingly are being made to enact workable legal exceptions that facilitate the ability of VHPs to provide care, treatment, and other assistance during times of emergency in states where they are not licensed.

Credentialing and privileging standards are required by law, and some jurisdictions have enacted detailed requirements for compliance with these standards.[39] Generally, state law requires hospitals to adopt procedures that govern the credentialing and privileging of physicians, in the form of medical staff bylaws.[40] Medical staff bylaws set forth the hospital's policies and procedures for granting and denying privileges and credentials to practitioners.[41] Other health professionals, including nurses and behavioral health professionals, may also undergo credentialing, and in some cases, privileging depending on the location and local requirements.

The terms "credentialing" and "privileging" are often used interchangeably, but are in fact distinct. The process of credentialing entails evaluating a health professional's

qualifications. Credentialing involves "obtaining, verifying, and assessing the qualifications of a health care practitioner to provide patient care, treatment, and services in or for a health care organization." To assess a practitioner's credentials, the hospital must obtain documentary evidence of the practitioner's licensure, education, training, experience and other qualifications. Clinical privileges differ from credentials in that they are a form of "[a]uthorization granted by the appropriate authority (for example, the governing body) to a practitioner to provide *specific* care, treatment, and services in an organization with well defined limits, based on the following factors, as applicable: license, education, training, experience, competence, health status and judgment."(*italics* added). Thus, privileging allows a health care organization to evaluate a health professional's credentials and qualifications, and to grant permission for this professional to engage in a defined scope of practice at a specific health care organization (with or without supervision) based upon these qualifications.[42]

Legal issues concerning licensing, credentialing, and privileging requirements are directly relevant to ESAR-VHP. In general, state laws and professional standards governing the health care system require a comprehensive and systematic evaluation of a health professional's qualifications and competencies as a prerequisite to professional licensure, credentialed status, or clinical privileges in a health care organization or entity. During times of emergency, when the rapid assistance of health care volunteers is needed to provide care and treatment to injured or ill patients, opportunities for prospective, systematic evaluation of licensure and credentials may not exist. The advanced registration model for volunteers proposed under ESAR-VHP seeks to address this problem by: (1) establishing in advance a list of VHPs that meet the high quality standards outlined in state laws and professional standards; and (2) creating a system that facilitates rapid evaluation of the skills, training, and capabilities of these volunteers by entities utilizing them during an emergency. This section examines how state laws and regulations that apply to licensing, credentialing, and privileging may impact the implementation and functioning of ESAR-VHP.

3.2.1 Licensure Requirements

Professional licensure of health professionals is a core state function. State laws mandating the licensure of health professionals are authorized pursuant to the state's police powers to protect the public's health and safety.[43] State licensure requirements dictate the circumstances under which a health professional may practice their profession within the state, as well as the scope of practice for each profession. Licensure laws also provide for disciplinary actions against licensed professionals or others engaged in unauthorized practices that violate the licensure and practice requirements for each profession.[44] Licensing of health professionals typically occurs through a state's department of professional regulation or occasionally its department of health. In most jurisdictions, each profession has their own licensing board responsible for evaluating professionals, granting licenses, and conducting disciplinary hearings when necessary.

All states require licensure (or some other form of mandated professional certification) for a variety of types of health professionals, including physicians, nurses, and behavioral health professionals. However, the qualifications and procedural requirements necessary for obtaining and retaining professional licenses vary

significantly between states. Similarly, state laws do not utilize consistent terminology to describe their licensed professionals and may authorize different scopes of practice. These variations present practical and legal challenges for ESAR-VHP.[45] States' use of divergent terminology and scopes of practice may complicate the practical development of an interoperable and useful ESAR-VHP database. Inconsistency in state laws can engender significant confusion about the appropriate scope of practice for licensed professionals volunteering across state lines.

Since professional licenses are typically authorized under state law and regulated at the state level, health professionals who hold valid, unrestricted licenses in a state may practice or volunteer throughout that state without restriction or penalty, provided that they act within their licensed scope of practice. However, potential legal constraints may apply when a health professional desires to practice or volunteer in a state where he or she is not licensed. Furthermore, legal concerns may emerge if a health professional's license has been restricted in a particular state and that practitioner engages in practice outside the scope of the restrictions.

Health professionals who practice without a license can be subject to criminal or civil penalties.[46] These penalties vary greatly by state. In some states the unlicensed practice of medicine is considered a felony. In others it is classified as a misdemeanor. For example, the practice of medicine without a license in Minnesota is considered a gross misdemeanor, punishable by a fine up to $3,000 or one year imprisonment.[47] However, Missouri classifies the unauthorized practice of medicine as a class C felony, punishable by up to ten years imprisonment.[48] Texas' state law provides that the practice of medicine without a license is a third degree felony. A conviction under this law may result in forfeiture of all medical rights and privileges conferred by medical licensure.[49] Similarly, penalties for the unlicensed practice of nursing and other health professions also vary by state.

Generally, the state licensure board is responsible for enforcing prohibitions against unauthorized practice by unlicensed health professionals. When criminalized, the unlicensed practice of medicine or any other healing art is usually considered a strict liability crime, that is, there may not be the need to demonstrate criminal intent to find a violation. Thus, the mere engagement in practice without a license would be criminal regardless of the intent or justification. Criminal sanctions, which vary in severity by state, can be imposed on the physician who engages in the practice of medicine without a license, as well as any other health professional that assists the unlicensed practitioner.[50]

Some states require certification rather than licensure to practice within the state. To the extent that certification is conducted by a state entity and required to practice a certain profession, it is akin to licensure. Certification which is carried out by private entities that govern professional practice applies across all states provided it is not tied to the ability to practice in a particular state. For example, if a physician is certified by the American Board of Emergency Medicine, his certification is an important element of his credentials and may be tied to privileging decisions, but may not relate to his state licensure status.

The following sections provide an overview of licensure requirements for physicians, nurses, and behavioral health professionals. These three areas of practice are used as examples because they correspond with the three areas of practice covered under the initial resource typing of the June 2005 ESAR-VHP Guidance Report.

3.2.1.1 Physician Licensure

There are two pathways for the licensure of physicians: examination and endorsement. New physicians, who do not hold a license in any jurisdiction, are typically required to undergo licensure by examination. Physicians who hold a license in at least one jurisdiction and are seeking to be licensed in another jurisdiction may have the option of licensure by endorsement. Requirements for licensure by examination and licensure by endorsement differ according to state law.

Licensure by examination involves several steps: (1) successful completion of graduate medical education at an accredited medical school; (2) successful completion of a standardized examination, usually the United States Medical Licensing Examination (USMLE);[51] (3) completion of residency training at program accredited by the Accreditation Council for Graduate Medical Education (ACGME), the American Osteopathic Association (AOA), or an equivalent organization;[52] and (4) licensing board investigation of the applicant's criminal history and character profile. Physicians pursuing a specialty may be required to meet additional licensing requirements, including board certification. Board certification by a specialty board requires the physician to have a certain amount of training in the specialty area and to sit for and pass the specialty examination.[53]

The licensure by endorsement process circumvents the normal examination process, resulting in the issuance of an unrestricted license to practice medicine to an individual who is already licensed in another state. Generally, it requires documentation of the completion of all necessary examinations, authentication of core documents, and completion of any additional requirements regarding fitness to practice.[54] A detailed summary of state licensure requirements for physicians among the ESAR-VHP Phase I-III states is available in Appendix F.

3.2.1.2 Nurse Licensure

As with physicians, licensure for registered nurses is available by either examination or endorsement. To be licensed via examination as a registered nurse, an individual must generally (1) graduate from a state approved registered nursing program; (2) demonstrate competence, knowledge, skills, and abilities in the practice of nursing, as evaluated by the NCLEX-RN examination; (3) submit to a criminal background check; (4) self-report regarding any drug-related activity that would effect the individual's ability to provide nursing care; and (5) self-report regarding physical, sensory, interpersonal, or cognitive deficits in functional abilities that may affect the ability to perform essential nursing functions.[55] Appendix G details licensure requirements for nurses in the ESAR-VHP Phase I-III states.

Requirements for licensure, scope of practice, and titles of specialized nursing professionals differ between states. There are typically three different categories of nurses: advanced practice nurses (APN), registered nurses (RN), and licensed practical nurses (LPN) or vocational nurses (VN). The scope of practice of each specialization is defined by state law and entails different licensure regulations. APNs generally have the broadest scope of practice, which may include the power to prescribe certain medications, make diagnoses, and administer certain types of treatments. Consequently, this professional designation entails stricter licensing requirements in terms of educational requirements and experience.

Within advanced practical nursing, there are a number of sub-specialties, including nurse-midwives, nurse anesthetists, clinical nurse specialists, and nurse practitioners.[56] Each of these subspecialties has different certification requirements. Registered nurses have a narrower scope of practice, which encompasses "assisting clients to attain or maintain optimal health, implementing a strategy of care to accomplish defined goals within the context of a client-centered health care plan, and evaluating responses to nursing care and treatment."[57] An LPN or VN generally has to work under the supervision of a registered nurse in a hospital or community health clinic setting.[58] Given their more limited scope of practice, an LPN or VN generally only receives one year of education and training in a hospital, community college, or other institutional setting.[59]

The Model Nurse Practice Act (MNPA), drafted by the National Council of State Boards of Nursing (NCSBN) in 2002, delineates model licensure requirements for registered nurses, advanced practice registered nurses, licensed practical nurses, and vocational nurses.[60] The MNPA provides guidelines for licensure by examination and endorsement, establishes a broad scope of practice for nurses, and authorizes a nurse licensed in one state to engage in limited practice in another state under certain circumstances.[61] Many states have adopted the MNPA's model language to govern the licensure and scope of practice of nurses.

3.2.1.3 Behavioral Health Professionals Licensure

Typically, behavioral health professionals must also be licensed by the state.[62] Psychiatrists are regulated by the same rules as physicians. Psychologists and other behavioral health professionals (e.g., social workers, marriage and family counselors, licensed professional counselors), however, are subject to a variety of different licensure, certification, credentialing, and privileging requirements, depending on the jurisdiction and health care organization. Licensure and certification requirements usually correlate to the scope of practice for the individual type of professional.

Most states require psychologists to have completed a terminal graduate degree (doctorate or masters) in psychology or a related specialty from an accredited school.[63] All states require psychologists to take and pass the Examination for Professional Practice in Psychology (EPPP).[64] Psychology licensure also requires a period of supervised practical experience, usually one year during a doctoral program and one year post-doctoral experience, although the requirements vary between states.[65]

Psychologists can also be licensed by endorsement. States have differing rules regarding psychologists' mobility based on whether they have signed on to reciprocity agreements with other states. The Association of State and Provincial Psychology Boards (ASPPB) offers two examples of multistate reciprocity agreements for psychologists: ASPPB's Agreement of Reciprocity and ASPPB's Certificate of Professional Qualification in Psychology (CPQ).

The ASPPB's Agreement of Reciprocity permits license reciprocity for psychologists who have been practicing for five or more years, are licensed in another member state, are not the subject of any investigation regarding disciplinary action, and do not have a felony conviction.[66] A psychologist must also complete the general licensure application process, however, he or she is not required to provide additional information regarding professional qualifications.[67] Currently, nine states are parties to this agreement (Arkansas, Kentucky, Missouri, Michigan, Nevada, New Hampshire, Oklahoma, Texas, and Wisconsin). Nebraska and Oregon are considering joining the agreement.[68]

The ASPPB's Certificate of Professional Qualification in Psychology (CPQ) prevents psychologists from having to document their core licensure requirements repeatedly once they have met them in another state. The CPQ is available to psychologists who meet "standards of educational preparation, supervised experience, and examination performance, and who have practiced a minimum of five years and have no history of disciplinary action."[69] When approved, the state agrees to accept the individual's education, experience, and examination information, but may require an examination regarding jurisprudence.[70] As of March 27, 2006, 29 states and the District of Columbia accept the CPQ. Twelve states are in the process of making administrative changes to facilitate the acceptance of the CPQ.[71] Additional information on state reciprocity requirements for psychologist licensure is tabulated in Appendix H.

3.2.1.4 License Reciprocity and Exceptions to Licensure Requirements During Emergencies

States have adopted several legal approaches to circumvent normal licensing requirements for health professionals during emergencies. The establishment of license reciprocity may be authorized under state statutes or regulations,[72] executive orders issued by a state governor, or invoked pursuant to legislatively-enacted interstate agreements, such as the Emergency Management Assistance Compact (EMAC)[73] (see Appendix I) or the Interstate Civil Defense and Disaster Compact (ICDDC).[74] These provisions allow VHPs who are licensed in one state to practice in another as if they were licensed in that other state, often for the duration of the emergency and sometimes under other circumstances as well.

In most cases, statutory, regulatory, and contractual exceptions to licensure only operate during a declared emergency. For example, in North Carolina, the Board of Medicine may waive licensure requirements for physicians during a declared emergency.[75] As mentioned in Section 3.1, many states provide for professional licensure reciprocity during declared emergencies through emergency statutes. Model emergency statutes such as MSEHPA and the Model Intrastate Mutual Aid Legislation (MIMAL),

which have been widely utilized by states to fashion their own emergency response laws, suggest statutory language that authorizes license reciprocity for health professionals during a declared emergency.[76] Under these model statutes, license reciprocity applies during a declared state of emergency, and in the case of MIMAL, for the duration of an authorized drill or training exercise as well.[77] The effect of a declared public health emergency on professional licensure requirements under MSEHPA and laws derived from it are discussed in Section 3.1.1. MIMAL authorizes the sharing of eemergency responders employed by a governmental entity across jurisdictional lines within a state.[78] For more information about MIMAL, see sections 3.2.2.2 and 3.3.1.4.

Other states have opted to implement licensure reciprocity through the execution of an executive order issued by the governor. Louisiana used this approach to authorize temporary validity for health professional licenses during Gulf Coast Hurricane response efforts in 2005. Medical professionals and personnel who possessed valid licenses were permitted to practice in Louisiana without obtaining a Louisiana license through these executive orders which were quickly issued when Hurricane Katrina hit and extended several times over the ensuing months.[79]

EMAC also authorizes reciprocity for health care professional licensure (see Appendix I). EMAC is an agreement between states that provides for mutual assistance in responding to and training for emergency situations. Currently, EMAC has been executed by all states except Hawaii, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.[80] The provisions of EMAC can only be activated in response to a government-declared emergency or the commencement of organized drills or training exercises. EMAC provides for reciprocity of licenses, certificates, and permits for individuals responding to an emergency when its protections have been activated, but this reciprocity is "subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise."[81]

The Interstate Civil Defense and Disaster Compact (ICDDC) is another mutual aid agreement utilized by states that provides licensure reciprocity for health professionals and others.[82] If an individual renders aid in a party state related to an emergency or disaster, that state shall recognize the individual's licenses, certificates, or other permits issued by any other state.[83] The scope of the ICCDC is limited to "mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons."[84] At least seven states have adopted EMAC, in lieu of the ICCDC, because of its broader scope. At least 14 states are parties to both compacts, adding to the complexity of emergency response efforts and the potential duplication of efforts.[85]

Many states have entered into regional mutual aid agreements as well. For example, 6 New England states and five Eastern Canadian Provinces have ratified the International Emergency Management Assistance Compact (IEMAC), which provides legal protections to emergency management workers utilized by party states, in accordance with its provisions.[86] Additionally, 19 state parties to the Southern Governors Association have ratified the Southern Regional Emergency Management Assistance Compact (SREMAC).[87] Ten states in the Midwest (Colorado, Iowa, Kansas, Missouri,

Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming) have developed a framework that allows the states to offer mutual aid during public health incidents that may tax existing resources but do not result in declared states of emergency. The Alliance was launched in 2004, and is administered by the Center for Biosecurity at the University of Nebraska Medical Center in Omaha.Professionals providing emergency assistance in accordance with these agreements receive licensure reciprocity.

Some states, however, have enacted broader reciprocity provisions that are not tied to emergency declarations.[88] Minnesota, Connecticut, West Virginia, and Illinois, for example, have enacted provisions allowing physicians holding licenses or permits from other states to provide care within the state when responding to an emergency.[89] Connecticut additionally allows a physician licensed in another state to practice medicine in Connecticut if they are acting within the scope of their employment with the U.S. government, if they are rendering temporary assistance to a physician licensed within the state, or if an individual within the state employs the out-of-state physician to treat the condition that he is suffering from at the time of the employment.[90]

California law provides for licensure reciprocity for health care practitioners licensed in another state who provide emergency assistance at the request of the Director of Emergency Medical Services Authority.[91] Practitioners providing assistance under this law are required to provide verification of their licensure status upon request. The director is responsible for determining what types of health care practitioners are needed for emergency response efforts and designating the areas where they are to be deployed.[92] Similarly, West Virginia permits an out-of-state physician to practice medicine for three months, on a one time only basis, if he is acting as a consultant for a physician licensed within the state.[93]

Nursing professionals may also enjoy the license reciprocity under state law. The MNPA specifically permits a nurse licensed in one state to engage in limited practice in another state under specified circumstances. License reciprocity is granted to nurses providing care (1) during an emergency or disaster;[94] (2) while transporting a patient into, out of, or through the state;[95] (3) to provide care to someone transported into, out of, or through the state; (4) to provide professional consulting services; (5) to attend continuing nursing education programs; (6) to fulfill other governmental duties; or (7) to provide other short-term/non-clinical nursing services.[96] Several states, including Illinois, [97] Minnesota,[98] Missouri,[99] and Ohio[100] have adopted relevant provisions of the MNPA regarding license reciprocity in emergency situations. In Wisconsin, a nurse licensed in another state may obtain a waiver of the licensure requirements for a period of 72 hours to provide care to a person being transported through the state or to a resident of the nurse's home state, upon giving the State Board of Nursing seven days notice and a showing that the nurse's credentials are substantially similar to those required in Wisconsin.[101] West Virginia has adopted a provision permitting the unlicensed practice of nursing in emergency situations.[102]

The Nurse Licensure Compact (NLC) creates broad inter-state license reciprocity. The NLC is an agreement entered into by 20 states, including Arizona, Maryland, Nebraska, New Hampshire, New Mexico, North Carolina, Texas, Virginia, and Wisconsin.[103] Two additional states, New Jersey and Kentucky, have enacted the NLC,

but have yet to implement it.[104] The agreement focuses on increasing cooperation and information exchanges between states regarding nursing licensure.[105] Under the NLC, one state's license to practice nursing will be recognized by all member states that authorize multistate licenses.

A nurse acting under the NLC must practice in accordance with the laws of the state where the patient is located and will be subject to the jurisdiction, licensing board, courts, and laws of that state. Member states may revoke the multistate license of a nurse, in accordance with principles of due process, to protect the health and safety of its citizens. Revocations are registered with the coordinated licensure information system to notify all other party states. Individuals not residing in a member state may apply for nurse licensure as provided for under the laws in each state. However, such licenses will not convey a privilege to practice nursing in any other member state unless explicitly agreed to in advance. Remote states may take action against nurses for practice within that state; however, only the home state has the power to actually act against the license.[106]

License reciprocity can also be found in many state Good Samaritan laws. Although ostensibly enacted to protect persons providing gratuitous emergency care from liability for their actions, Good Samaritan statutes typically excuse violations of licensure requirements. One example is the Massachusetts Good Samaritan law, which provides liability protection to physicians, nurses, and physician assistants who are licensed in Massachusetts, another state, or Canada who render emergency care other than in the ordinary course of practice without fee.[107] For more information about Good Samaritan laws, see section 3.3.1.3.

In summary, health professionals have several options for interstate license reciprocity under existing legal provisions. Health professionals who volunteer in a state where they are not licensed may be permitted to engage in professional practice if the state has invoked license reciprocity for the duration of a declared emergency, consistent with state emergency laws and agreements (e.g., MSEHPA, MIMAL, EMAC). Additionally, VHPs may practice in states that have entered into general licensure reciprocity agreements (e.g., MNPA, NLC).

3.2.2 Credentialing and Privileging

Credentialing and privileging play a vital role in the ability of health care organizations and public health agencies to assess the qualifications and shape the practice of health professionals. Obtaining credentialed status and clinical privileges are an important process for many health professionals. A health professional who has been credentialed in his or her field will typically have additional opportunities to practice in health care organizations that require credentialed status. Likewise, many health care facilities require health professionals to undergo a clinical privileging process prior to practicing in that facility. The level of privileges granted to a health professional within a specific facility will dictate that practitioner's scope of practice.

State laws generally require hospitals and other health care organizations to formulate procedures governing the credentialing and privileging process for health

professionals. These procedures frequently are enunciated through a hospital's medical staff bylaws[108] describing the hospital's policies and procedures regarding the granting and denial of privileges and credentials to practitioners.[109]

Credentialing and privileging are two distinct processes. Credentialing provides a framework for assuring that health professionals have certain skills and competencies. The credentialing process involves "obtaining, verifying, and assessing the qualifications of a health care practitioner to provide patient care, treatment, and services in or for a health care organization."[110] Credentialing determinations utilize criteria such as the health professional's licensure, education, training, experience, and other qualifications.[111] Hospitals and other health organization may engage in credentialing internally or accept credentialing determinations made by external organizations, such as credential verification organizations (CVO).

Privileging processes are distinguishable from credentialing by their integral role in the professional relationship between a health professional (most often a physician) and the health care organization. A practitioner seeks clinical privileges in order to obtain the necessary authorization to provide specific care, treatment, and services in an organization. Privileging decisions are usually within the discretion of the health care entity from which the practitioner seeks privileges, and made on a case-by-case basis. Hospitals will make privileging determinations in accordance with their duty to provide for the safety and quality of care of their patients.[112] In doing so, the hospital will seek to ensure that all members of its staff are competent and qualified to provide the health services based on their privileges.[113]

Similar to the assessments made for credentialing and licensure decisions, privileging determinations are based on the practitioner's applicable experience, education, licensure, training, and judgment.[114] The health care entity may make privileging decisions based on its determination of the practitioner's credentials, experience, and performance, in accordance with its medical staff bylaws.[115] Unlike licensure and credentialing, however, privileges only apply within well-defined parameters on scope of practice, and only within the specific institution granting the privileges. Thus, a health care professional who has satisfied credentialing and privileging requirements for one health care organization will not necessarily be offered privileges elsewhere.

3.2.2.1 Credentialing and Privileging Requirements and Accreditation of Health Care Entities

Hospitals and other health care entities may lose their accreditation status if they fail to meet standards for credentialing and privileging of health professionals. Several national organizations, including the Joint Commission for the Accreditation of Health Care Organizations (JCAHO) and the National Committee for Quality Assurance (NCQA), have generated credentialing standards that are widely utilized by hospitals and other health care organizations. JCAHO sets the standards for patient safety and quality of care for hospitals and other health care organizations.[116] Although not a governmental entity, JCAHO's standards for patient safety and quality of care are nationally accepted. Similarly, NCQA accredits, among others, managed care organizations (MCO), preferred

provider organizations (PPO), managed behavioral health care organizations, and credentialing verification organizations (CVO) based on a variety of quality assurance indicators.[117]

JCAHO credentialing standards differ from licensing regulations in that compliance is strictly voluntary and does not carry any penalties for non-compliance.[118] Critical elements of the credentialing process are:

- Procedures for the verification of credentialing and licensure information of medical staff, which are set out in the medical staff bylaws;
- Selection criteria which are designed to ensure that patients receive care, treatment, and services from qualified providers;
- Mechanisms to confirm that the person identified in the credentialing documents is the same person that is seeking privileges;
- Verification of the applicant's current licensure, relevant training and experience, and current competence, including queries of the National Practitioner Data Bank (NPDB);
- A fair process for the reappraisal of privileges, which evaluates the individual's continued ability to provide competent medical care, treatment, and services within the parameters of the individual's privileges; and
- A hearing and appeals process in the case that an adverse privileging decision is made.[119]

Like many state laws, JCAHO requires hospitals to maintain medical staff bylaws that "delineate [the medical staff's] responsibilities in the oversight of care, treatment and services."[120]

3.2.2.2 Exceptions to Credentialing and Privileging Requirements During Emergencies

Several legal and policy provisions may alter credentialing and privileging requirements during an emergency in a way that facilitates the rapid assessment of health professional qualifications and supports the sharing of VHPs across facilities and jurisdictions. For example, various state licensure regulations and/or federal laws require hospitals to be able to provide emergency medical care at all times[121] and to provide emergency and first aid care to any patient who comes to the facility.[122] Meeting these requirements in the case of a public health emergency may require the hospital to activate the emergency management plan and begin to seek out additional health professionals to meet the expanded medical care needs.

JCAHO requires medical staff bylaws to feature emergency management plans that include a means by which hospitals identify health professionals to provide care during emergencies. During emergencies, the hospital must also identify the roles and responsibilities of the medical staff, including establishing the command structure within the hospital. As part of the emergency management plan, bylaws must contain policies regarding the granting of medical privileges during a disaster. A hospital may grant disaster privileges to a health professional upon a showing by the individual of: (1) a

hospital ID card; (2) a current license to practice and a valid picture ID issued by a governmental authority; (3) identification indicating that the individual is a member of a Disaster Medical Assistance Team (DMAT); (4) identification indicating that the individual has been granted authority to care for and treat patients under disaster circumstances; or (5) a hospital staff member that has personal knowledge of the individual's identity.[123]

JCAHO also requires hospitals to have policies regarding the granting of temporary clinical privileges. Temporary privileges are granted either when a new applicant is awaiting formal approval by the medical staff executive committee or "to fulfill an important patient care, treatment, and service need." Prior to granting temporary privileges to meet a need for patient care, the hospital must verify the health professional's licensure and competence.[124] As a registry of licensure and credentialing information for volunteers, ESAR-VHP can play an important role in this process.

Credentialing and privileging requirements for health professionals have a clear connection to the purpose and the functionality of ESAR-VHP. In a public health emergency or other disaster that affects health, VHPs may be called on to provide surge capacity and assist in the provision of medical care on short notice. ESAR-VHP will act as an important means of reviewing the credentials of VHPs to determine if they are qualified to provide the type of care requested of them. Health facilities may utilize the information provided by ESAR-VHP to grant temporary or disaster privileges to VHPs. Therefore, an understanding of credentialing and privileging requirements is essential to the effective implementation of ESAR-VHP.

3.3 Civil Liability, Immunity, and Indemnification

3.3 Summary Points

- Civil liability refers to the potential responsibility of a person or entity for actions that result in injuries or losses to others.
- Civil liability may result from the negligent (or intentional) actions of volunteers providing health care services during an emergency. Likewise, health care entities that provide or accept volunteers during an emergency may face civil liability due to the actions of the volunteers or the actions of the entity itself. Finally, administrators of ESAR-VHP could face civil liability if they are negligent in creating, maintaining, or administering the system.
- Civil liability may impact the operation of ESAR-VHP. Assessing potential civil liability underlying ESAR-VHP helps avoid uncertainty about the liability of volunteers participating in the system, health care entities providing or accepting volunteers through the system, and the administrators of the system.
- Protections from civil liability exist under federal and state laws in the form of immunity and indemnification. Immunity provisions shield certain persons or entities from civil liability for their actions, but not egregious misconduct (gross negligence or willful and wanton misconduct). Indemnification provisions provide reimbursement of persons or entities found civilly liable.
- Several types of legal provisions may grant immunity to volunteers (e.g., volunteer protection statutes; Governmental (sovereign) immunity; Good Samaritan laws; emergency statutes; and mutual aid agreements).

- Health care entities that provide or accept volunteers during an emergency may be immune from civil liability under limited circumstances. However, many of the provisions that grant immunity to volunteers do not apply to health care entities. Health care entities may receive immunity protection in some states via sovereign immunity if they are considered agents of the state during an emergency.

- Administrators of an ESAR-VHP may be immune from civil liability if they are government employees or entities. Private entities or individuals administering ESAR-VHP may also receive immunity if they are considered to be government contractors in a state that extends government sovereign immunity to such contractors.

Civil liability is one of the most pervasive issues affecting the modern health care delivery system. The application of civil liability to actions or inactions within the health care system raises complex questions about responsibility, causation, and justice that are particularly difficult in the context of emergency situations. Who may be liable for specific actions in an emergency situation? Under what specific circumstances will civil liability apply to the actions of health care volunteers, health care entities that provide or accept volunteers, public health practitioners that implement emergency responses, and others during an emergency? What types of protection from liability may apply to the actions of volunteers and others during an emergency? Correspondingly, this section addresses these important questions and examines civil liability issues under multiple theories, themes, and circumstances that may relate to ESAR-VHP.

First, it is important to understand some basics of civil liability. Civil liability refers to the potential responsibility that an individual or entity owes for actions (or failures to act) that harm others. Civil liability may arise from a person's actions that breach or deviate from statutory, regulatory, or judicial requirements, or contractual obligations or policy statements. In other instances, a person's failure to act may cause injury to others. In either scenario, if an aggrieved person can prove their case (in court or otherwise), the opposing party may be liable to provide compensation for physical or mental injuries, property losses, or other damages.[125]

Federal and state tort laws allow for several types of claims against health professionals and their employers for actions involving the provision of health services, care, and treatment. Many claims are based on theories of negligence (i.e., that an individual failed to adhere to a certain standard of care). Health professionals who negligently cause personal injury may face civil liability, as may their supervisors or employers through what is known as vicarious liability. While tort laws outlining negligence differ from state to state, the standards for finding negligence in the provision of health care are fairly consistent. A finding of negligence generally requires that:

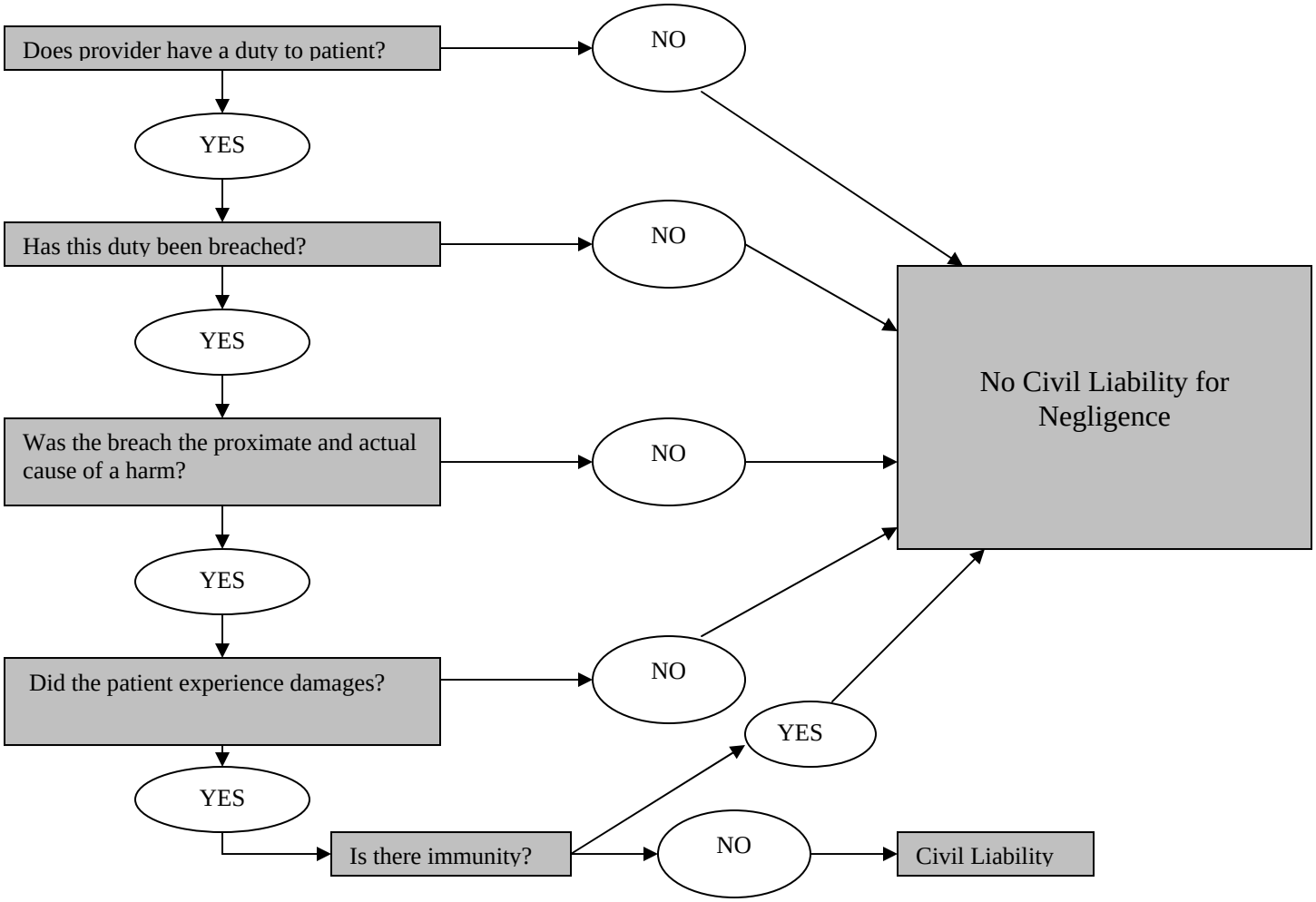
- a health professional or other entity owed a duty of care to another;
- the health professional or other entity breached the duty by engaging in unreasonable conduct (e.g., not meeting the standard of care required for the health professional under the circumstances);
- the conduct was a proximate cause of the harm to another; and
- the conduct caused actual harm (e.g., a physical or mental injury, property damages) to another.[126]

Civil liability may apply to the actions of individuals or entities throughout the operational structure of ESAR-VHP. Health professionals who volunteer through the system may face liability for negligence or intentional torts committed while performing their duties. Health care organizations that provide or accept volunteers through the system may face vicarious liability for the actions of these volunteers. The state-based administrators of ESAR-VHP may face liability for inadequately verifying the credentials of volunteers.

Of course, there are limits to civil liability. A host of statutory provisions, including emergency response laws, volunteer protection laws, and Good Samaritan laws may grant immunity from liability to volunteers, hospitals, and others. Additionally, substantial governmental immunity may exist for entities and employees within federal, state, or local governments. These broad immunity provisions may insulate VHPs from civil liability when responding to declared emergencies.

Civil liability may impact the operation of ESAR-VHP. Assessing potential civil liability in advance may help avoid uncertainty about the liability of volunteers participating in ESAR-VHP, health care entities providing or accepting volunteers through the system, and the administrators of the system. Figure 4, below, diagrams key questions that may lead to a finding of civil liability.

Figure 4. Civil Liability for Negligence



3.3.1 Volunteer Health Professionals

VHPs may face civil liability for negligently providing health services, care, and treatment during an emergency. A VHP could also be sued for other tort violations, including breach of privacy, intentional or negligent infliction of emotional distress, or misrepresentation.

Health professionals may face civil liability due to unskillful practice resulting in injury to the patient, often referred to as "malpractice." Malpractice standards, which differ between states, are highly dependent on the circumstances of the particular situation. However, malpractice liability generally will be evaluated using the relevant negligence criteria in the jurisdiction where the act took place. For example, a VHP may face potential civil liability if he or she has a duty to the patient, breaches that duty though unreasonable conduct, the breach proximately causes harm to the patient, and the patient experiences actual harm or damages as a result. The volunteer will typically satisfy the "duty" requirement once he or she establishes a relationship with the patient and undertakes treatment or care of the patient. This relationship does not necessarily need to be explicitly discussed or agreed upon; a provider-patient relationship can be implied by the actions of the parties. If the volunteer fails to satisfy the appropriate standard of practice required for someone of their profession and training under the circumstances, the second criterion may be satisfied.

The third criterion, proximate cause, usually requires a demonstration that the actions of the practitioner were the predominant and direct cause of the resulting injury. If there were subsequent intervening circumstances or multiple factors contributing to the ultimate injury, civil liability may be reduced or avoided. Finally, in most jurisdictions the patient must have suffered an actual harm or damages (e.g., an injury, detrimental impact on health, or a quantifiable economic loss).[127] Failure to have a valid professional license may be a factor in negligence cases, but practice without a license will not alone result in a finding of civil liability against the practitioner.

Several other types of torts besides malpractice could subject a VHP to civil liability. For example, the performance of an invasive bodily procedure without informed consent could be considered a battery and subject the VHP to civil liability (although exceptions to informed consent apply during some emergency situations). Similarly, if a health professional intentionally misrepresents relevant information about a procedure to a patient, he or she may face charges of negligent misrepresentation in some jurisdictions. A practitioner may also be found civilly liable in some jurisdictions for negligent infliction of emotional distress if actions taken caused the patient or a bystander substantial emotional suffering with concordant physical injuries and this reaction was foreseeable.[128]

A related issue with implications for the ESAR-VHP system is whether the standard of care is reduced during an emergency situation when hospitals may be overwhelmed and staffed with numerous volunteers. Research conducted for this report has not found any cases suggesting a reduced standard of care during an emergency. Generally, "[a] hospital rendering emergency treatment is obligated to do that which is

immediately and reasonably necessary for the preservation of the life, limb or health of the patient."[129] Under this standard, an emergency room physician would likely be subject to the standard of care for a specialist in the field.[130] Likewise, the hospital would be subject to the general negligence standard of care and statutory duty to provide emergency care to patients who need such care, as applicable to the jurisdiction.

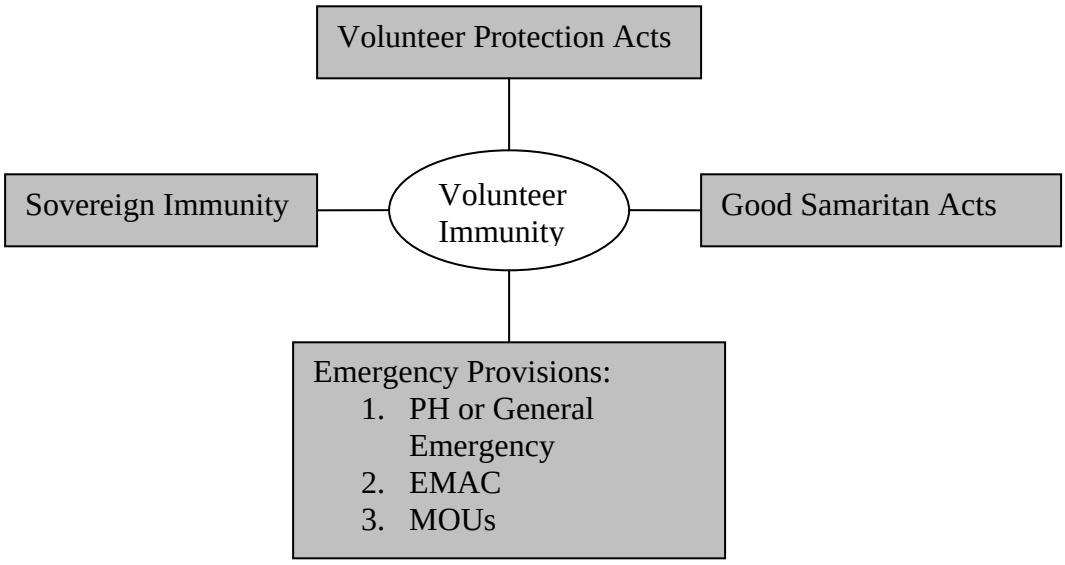
As with any malpractice case, facts must be evaluated on an individual basis to determine whether the physician or hospital acted within the standard of care. The circumstances related to the emergency as a whole play a factor in establishing the standard of care for the physicians and medical staff rendering care. If the hospital is presented with an overwhelming number of patients as a result of some type of disaster, the hospital would be obligated to exercise reasonable care in enacting and implementing policies to attempt to have adequate medical staff available to meet the need for care. Additionally, the hospital may be obligated to exercise the requisite degree of care in performing triage to treat the patients who have the greatest need first.

All jurisdictions offer VHPs some degree of immunity from civil liability, depending on the circumstances. For volunteers that are government employees, uncompensated for their work, or helping during a declared emergency, this immunity from civil liability is often quite broad.

As noted in Figure 5, below, several sources of law offer potential immunity from civil liability to VHPs. Statutory and constitutional limits on civil liability for normal volunteer practices may come from (1) volunteer protection statutes and (2) governmental immunity provisions (if the volunteer is a government employee or agent). During emergency situations, additional legal sources of immunity may be available, including (3) Good Samaritan statutes; (4) emergency statutes; and (5) mutual aid compacts.

In most jurisdictions, governmental immunity applies to employees, officers, or agents of the government for acts within the scope of their employment. Some jurisdictions, by contrast, allow employees to be held liable for their actions within the scope of their employment, but the state is required to defend or indemnify the employee. This distinction is important. Immunity prevents a civil liability claim from going forward, while indemnity allows for the payment of damages (reimbursed by the state) if the claim is successful.[131]

Figure 5. Civil Liability Immunity Provisions Applicable to Volunteer Health Professionals



3.3.1.1 Volunteer Protection Acts

Statutory volunteer protection acts (VPAs) at the federal and state levels limit the civil liability of volunteers.[132] VPAs, or similar provisions providing some degree of civil liability protection to volunteers, are found in all fifty states and the District of Columbia.[133] The federal VPA, passed in 1997, asserts that volunteers for nonprofit organizations or governmental entities shall not be liable for harm caused by their acts or omissions on behalf of the organization or entity. To receive this civil liability protection, a volunteer must: (1) be acting within the scope of the volunteer's responsibilities; (2) be properly licensed, certified, or authorized by the appropriate authorities as required by law in the state in which the harm occurred; (3) have not engaged in willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual(s) harmed by the volunteer; and (4) not have caused the harm by operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires its operator to possess an operator's license or maintain insurance.[134] Federal VPA immunity applies to uncompensated, individual volunteers, but not organizations employing or supervising volunteers.[135] Inconsistent state laws are overridden by the federal VPA, although more protective state laws remain in effect.[136]

Some states have chosen to extend liability protection to volunteers in the Medical Reserve Corps (MRC). For example, Oklahoma has enacted a broad volunteer protection act that specifically provides immunity from liability to volunteer medical professionals in the MRC.[137] Members of the MRC are entitled to liability protection for good faith acts related to the provision of assistance with emergency management, emergency operations, or hazard mitigation in response to any emergency or disaster, or participating in government-endorsed public health initiatives.[138]

3.3.1.2 Sovereign Immunity

Volunteers that are considered to be state government employees or agents typically receive protection from civil liability pursuant to the governmental immunity, also known as "sovereign immunity," held by federal or state governments as sovereign entities. State governmental immunity is grounded in tradition and reflected in the Eleventh Amendment to the U.S. Constitution, which prohibits individuals from bringing private claims against the state. However, there has been a steady erosion of governmental immunity in most states through the courts and the passage of tort claims acts (TCAs). TCAs waive the traditional sovereign immunity of federal or state governments and its agents acting within their official duties. The structure and scope of TCAs vary. Some state laws generally abolish sovereign immunity, reserving immunity for specific circumstances only.[139] Other states retain sovereign immunity in most cases, but list exceptions where civil liability may arise.[140]

Within the federal context, the Federal Tort Claims Act ("FTCA")[141] represents a limited waiver of federal sovereign immunity under which, with certain exceptions, the United States may be liable for the tortious conduct of its employees to the same extent as a private party.[142] In general, the FTCA is the exclusive remedy for individuals harmed by the negligence of employees of the Federal government, including certain volunteers who by statute have been extended FTCA protection and who are acting within the scope of their duties. However, this waiver of sovereign immunity must be strictly construed,[143] and the limits of the waiver define a federal court's jurisdiction to act to enforce its provisions.[144] Suits under the FTCA are limited to those that involve claims arising from "the negligent or wrongful act or omission of any employee of the Government ... acting within the scope of his office or employment."[145]

Some states have specifically extended immunity protections to volunteers under their Tort Claims Acts. For example, New Jersey provides volunteer emergency management workers with liability protection through the state's Tort Claims Act. Emergency management volunteers are considered employees of the state.[146] Additionally, the statutory definition of employee includes uncompensated individuals, which may allow the statute to be read broadly enough to include protection for VHPs.[147] Maryland's Tort Claims Act provides state personnel immunity for acts or omissions within the scope of their duties.[148] State personnel include unpaid individuals performing state functions.[149] Thus, volunteers providing health services as part of the state's emergency management duties may be immune from liability as state actors.

The immunity protections offered to volunteers by VPAs and sovereign immunity will apply regardless of whether or not there is a declared emergency in the state. These protections, however, are limited to volunteers working in specific settings and meeting defined criteria. So, for example, health professionals who volunteer at a for-profit private hospital or at a nonprofit hospital with compensation will not be covered under these types of provisions.

Other states have opted to provide defense and indemnification guarantees to VHPs. For example, New York offers civil defense workers immunity from liability for actions performed in the process of carrying out duties associated with civil defense

measures[150] and categorizes them as agents of the state, entitled to defense and indemnification from the state for any tort or negligent act committed during a declared emergency or drill.[151] This means that the state will provide qualifying volunteers with legal representation throughout the litigation process and pay any resulting damages claims.

New Mexico takes a similar approach. While the state has specifically waived sovereign immunity for government employees providing health care services under its TCA[152] government employees acting within the scope of their duties are entitled to defense and indemnification for any tortious conduct.[153] Thus, volunteers in New Mexico may lack liability protection, but they are entitled to defense and indemnification so long as they are approved by the relevant government agency.

Washington State is the only state that has specifically abrogated its own sovereign immunity regarding tortious conduct.[154] However, its emergency management laws provide emergency workers with indemnification for claims of liability related to tortious conduct, provided that the conduct did not amount to willful misconduct, gross negligence or bad faith.[155] Emergency workers entitled to this protection include any individual registered with local emergency management authorities or the state and who are called upon to provide emergency response services.[156]

3.3.1.3 Good Samaritan Statutes

VHPs may also be protected under specific state laws that limit or eliminate civil liability for volunteers responding to an emergency. Good Samaritan statutes generally diminish the potential civil liability of VHPs providing assistance in response to an immediate emergency outside the practitioner's normal practice by reducing the required duty of care. Appendix D lists Good Samaritan statutes in each of the ESAR-VHP Phase I-III jurisdictions.

While these Good Samaritan provisions provide some level of immunity from civil liability, the applicable conditions and standards of negligence vary widely. In general, health professionals volunteering in good faith and without compensation at the scene of an emergency are protected from civil liability for ordinary negligence. Good Samaritan protections may apply to volunteer emergency services provided in a hospital if the practitioner is not on duty and does not charge a fee.[157] Good Samaritan statutes also do not require any sort of official declaration of emergency to operate, but the practitioner generally must be responding to an emergency situation for civil liability protections to apply.

Most Good Samaritan statutes remove civil liability for ordinary medical negligence, but not for acts of gross negligence or wanton misconduct. Good Samaritan statutes do not apply to persons who have a pre-existing duty to provide aid.[158] In some states, a pre-existing duty to provide care may apply to certain health professionals, and therefore the Good Samaritan statute may not grant them immunity from civil liability under any circumstances. Some Good Samaritan statutes do not apply to actions that occur in a hospital, are pre-arranged, or in which the person receives compensation. Texas' Good Samaritan statute, for example, provides immunity from suit for care

rendered in an emergency, outside the hospital, unless the acts were willfully or wantonly negligent.[159] Despite these limitations, VHPs registered through ESAR-VHP in many states may benefit from a reduced standard of care under Good Samaritan statutes provided they are truly volunteers and do not expect payment for their services.

3.3.1.4 State Emergency Statutes, Declarations, and Compacts

Many states have enacted emergency statutes and regulations that provide civil liability protection for VHPs. Model emergency laws, such as MSEHPA and MIMAL, explicitly grant immunity from civil liability to emergency responders during a declared emergency.[160] MSEHPA provides broad immunity from civil liability for out-of-state emergency health professionals. These professionals "shall not be held liable for any civil damages as a result of medical care or treatment related to the response to the public health emergency unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of the patient."[161] This provision would most likely apply to ESAR-VHP volunteers engaged in the provision of health care or public health services in another state, assuming that the state had adopted these MSEHPA provisions.

MSEHPA's model provisions also establish immunity from civil liability for (1) the state medical examiner;[162] (2) state and local officials engaging in a public health emergency responses, except in cases of gross negligence or willful misconduct;[163] (3) persons owning real estate who voluntarily and without compensation grant a license or privilege to use their land; (4) private persons, firms, corporations, and their agents and employees who perform their duties under a contract with the state; and (5) private persons, firms, corporations, and their agents and employees who render assistance or advice at the state's request. These broad categories of immunity may encompass many activities conducted by persons and entities assisting the state, including those assisting via ESAR-VHP, if states have adopted these MSEHPA provisions.

MIMAL employs a similar immunity scheme for VHPs responding within a state. Under MIMAL, all persons, including VHPs, responding under the operational control of the government entity requesting aid will be considered to be employees of that government entity. Therefore, for purposes of emergency response, any sovereign immunity protections that apply to government employees in the jurisdiction likely would apply to the volunteers for the duration of their volunteer service.[164] Additionally, MIMAL features an explicit immunity provision: "Neither the participating political subdivisions nor their employees… shall be liable for the death of or injury to persons, or for damage to property when complying or attempting to comply with the statewide mutual aid system." Immunity will not apply to acts found to entail willful misconduct, gross negligence, or bad faith.[165]

While most state emergency statutes offer vague immunity provisions, Connecticut provides a good example of how a direct and specific immunity statute can lay the groundwork for ESAR-VHP. A recently enacted Connecticut statute grants immunity (except in cases of willful misconduct) to volunteer members of specific entities comprised of medical and public health volunteers.[166] Immunity is granted

specifically to the Connecticut Disaster Medical Assistance Team; the Medical Reserve Corps; the Connecticut Urban Search and Rescue Team; and the Connecticut Behavioral Health Regional Crisis Response Teams, members of which may also be VHPs through ESAR-VHP. Michigan vests medical professionals who are providing medical services during a disaster at the express or implied request of a state or governmental agency with immunity protections for negligent acts.[167] These medical professionals are considered disaster relief workers, which include volunteer personnel, public officers, and employees.[168] Like most states, Michigan's statutory scheme does not provide liability protections for willful acts or omissions.[169]

Finally, civil liability protections for volunteers may be authorized by emergency compacts such as the Emergency Management Assistance Compact (EMAC) (see Appendix I). EMAC provides that "[o]fficers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes."[170] Those rendering aid are protected from civil liability by EMAC, provided that they act in good faith and without "willful misconduct, gross negligence, or recklessness."[171]

The language of the EMAC raises some important questions of interpretation. Article VI of EMAC, as adopted in the laws of many states, provides for protection from civil liability in the rendering of emergency assistance, by *"officers or employees of a party state."* EMAC does not address who would be considered an "officer or employee." Similarly, the ICDDC only extends immunity protections to officers or employees of party states.[172] Thus, under these compacts, it is unclear whether volunteers that are not state officers or employees in their home state would be eligible for liability protections. During the responses to Hurricanes Katrina and Rita in 2005, some states were able to expand their available workforce of state officers and employees eligible for deployment and protections under EMAC by entering into temporary hiring or deputation arrangements with VHPs from local governments or the private sector.[173]

International and other multi-jurisdictional mutual aid compacts may raise similar questions. IEMAC immunizes from liability any "person or entity of a party jurisdiction." This phrase also leaves open the question whether the "person or entity" must be from the government.[174] SREMAC provides liability protections to party states and their officers and employees rendering aid in another state, pursuant to the compact.[175] SREMAC's immunity protections are, however, limited. They only grant immunity "to the extent that such immunity is enjoyed by officers and employees of the state in which they are rendering aid."[176]

The use of inter-facility Memoranda of Understanding (MOUs) to share staff and meet surge capacity needs is a common practice in the private sector. Nearly 70% of urban hospitals have agreements with other hospitals to share resources in the event of bioterrorism.[177] Many hospitals have entered into MOUs with other nearby health care entities to coordinate emergency response efforts between hospitals and allow for the sharing of personnel and equipment.[178] The District of Columbia Hospital Association maintains a mutual aid agreement among its members to mutually assist hospitals in emergency management.[179] This agreement served as the basis for the development of a Model Mutual Aid Memorandum of Understanding by the AHA.[180] These MOUs

address the logistics of the sharing of personnel and equipment, the transfer of patients, and the assignment of credentialing responsibilities and legal liability to hospitals receiving assistance from others. Shared staff members are often paid as temporary employees at the facility where they provide assistance; in other situations their normal employer will pay their salary and receive reimbursement from the hospital who benefited from the shared services. MOUs between hospitals often contain provisions assigning liability related to the use of another health care entity's staff or equipment. Generally, the recipient hospital assumes liability for equipment and personnel provided by another hospital.[181] These agreements do not extinguish liability, but rather assign corporate liability related to the negligence of individual health care practitioners.

Some states have (1) passed bills requiring their public health departments to execute MOUs with particular MRCs, (2) incorporated MRCs within the explicit statutory language of their emergency statutes, or (3) issued advisory opinions describing the roles of MRCs and the potential coverage afforded under existing statutes. Section 3.6.4 elaborates on each of these scenarios.

3.3.2 Public or Private Health Care Entities that Provide or Accept Volunteer Health Professionals

Health care organizations or entities that either provide or accept VHPs through the ESAR-VHP system may also face civil liability. Organizations may be held liable for their own negligent activities under the theory of corporate negligence, or in some instances for the negligent (or criminal) actions of their employees, agents, and volunteers through the theory of vicarious liability.[182]

3.3.2.1 Corporate Negligence

Corporate negligence is a very important concept in that it can subject a hospital to civil liability for the acts of negligent health professionals and for its own failures to adopt appropriate policies and procedures to protect patients. Under the theory of corporate negligence applicable in many jurisdictions, a hospital generally has four duties:

(1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment;
(2) a duty to select and retain only competent physicians;
(3) a duty to oversee all persons who practice medicine within its walls as to patient care; and
(4) a duty to formulate, adopt, and enforce adequate rules and policies to ensure quality care for the patients.[183]

A finding of corporate negligence typically requires a demonstration that the hospital deviated from the standard of care, had actual or constructive notice of the defects or procedures that caused the harm, and the conduct was a substantial factor in bringing about the harm.[184] Therefore, injuries that occur due to the actions or inaction of the health care entity, such as negligent hiring and supervision of medical staff,[185] inadequately maintained facilities and equipment, and failure to implement appropriate

procedures to protect patients,[186] may result in civil liability under the theory of corporate negligence in jurisdictions that recognize this theory.

The concept of corporate negligence may apply in emergency situations. For example, a hospital could be subject to civil liability for failure to maintain proper trauma center status under the state regulations, failure to maintain proper emergency triage procedures, or failure to properly staff an emergency department to be equipped to handle emergency situations. Likewise, if the hospital fails to reasonably check the credentials and licensure of VHPs, the hospital may also be open to liability if unqualified individuals provide improper medical care.

The corporate negligence theory may also be used to hold a hospital civilly liable for the acts of an individual physician. In many jurisdictions, hospital staff members have an ongoing duty to ensure the quality of patient care by reporting abnormalities in the treatment of patients.[187] Thus, if any staff member believes that a health care professional is failing to act within the proper standard of care, they are obligated to advise hospital authorities accordingly so that appropriate action might be taken. This can give rise to hospital liability for the failure to provide adequate supervision of its staff, which is analogous to the failure to adopt adequate rules and policies to ensure the quality of care provided to patients.[188]

Thus, a hospital or other health care facility may incur civil liability for injuries befalling a patient that are due to acts other than the negligent acts of practitioners. Grantees should consider whether organizations that proactively supervise VHPs and take reasonable precautions in selecting VHPs (e.g., through using the ESAR-VHP system to request volunteers and verify their qualifications) will be less likely to face civil liability for negligence on these bases.[189]

3.3.2.2 Vicarious Civil Liability

The tortious actions of volunteers can potentially be imputed to the organization through the principle of vicarious liability. Vicarious civil liability applies when an employer is responsible for the torts of its employees or agents, despite the fact that the employer itself may not have engaged in any negligent activities. Vicarious civil liability can arise through the theories of respondeat superior and ostensible agency. The criteria and applicability of these theories varies between states and will be highly dependent on the circumstances of the specific situation.

The legal theory of respondeat superior presumes that an employer has control over and is therefore responsible for the acts of its employees. Typically, the extent of this civil liability depends on the level of control exerted by the employer over the actions of the employee. In most jurisdictions, the employer will only be liable for acts of the employee undertaken within the "scope of employment." Hospitals may be held liable for the acts of nurses, residents, interns, and certain behavioral health professionals under respondeat superior, since these health professionals are often considered employees. Furthermore, a physician may be liable for the actions of a nurse or other subordinate physicians under the "captain of the ship" doctrine in the case of a negligent act

committed during surgery.[190] The captain of the ship doctrine is not recognized in all states however.[191]

Traditionally, physicians are viewed as independent contractors, which may insulate a hospital from vicarious civil liability for their actions under respondeat superior. However, under the doctrine of ostensible agency, which applies in some jurisdictions, the hospital may be liable for the physician's actions when (1) the patient looks to the hospital rather than the individual physician to provide him with care, and (2) the hospital holds the physician out as its employee.[192] Civil liability under the theory of ostensible agency is particularly relevant in emergency situations.[193] When a patient enters the emergency room, he generally looks to the institution to provide him with care and has no knowledge of the nature of the employment relationship between the physician and the hospital. Moreover, by permitting the physician to practice in the emergency room, the hospital is holding that individual out as its employee.

Health care organizations that accept volunteers participating in the ESAR-VHP system may or may not be considered to have sufficient control over the VHP's activities during the course of the emergency to implicate vicarious civil liability.[194] It is uncertain whether a court would find the accepting entity to be vicariously liable for the actions of a VHP based on an employment relationship, but such a result is certainly possible under the theory of ostensible agency.

3.3.2.3 Immunity and Indemnification of Health Care Entities

Whereas a variety of provisions exist that may provide immunity from civil liability for individual VHPs, organizational entities do not typically qualify for immunity. The major categories of statutes described above rarely extend immunity to non-governmental organizational entities. VPAs, Good Samaritan laws, and emergency response provisions do not typically extend immunity to organizational entities such as hospitals and health care organizations. Therefore, health care organizations may possibly be held civilly liable for the negligent acts of a VHP even though the VHP has received immunity from these acts based upon one of the applicable immunity provisions.

Health care entities may be immunized via sovereign immunity or through direct statutory provisions. Sovereign immunity protections may apply if an entity is considered to be a government entity or government contractor (but only in jurisdictions that extend sovereign immunity to government contractors). Some states have legislated direct liability protections for entities utilizing volunteers. For example, Minnesota extends power to the governor to issue an executive order when the resources of hospital and other health care facilities are exhausted. Care can be provided in temporary facilities.[195] Under such an order, organizations and individuals providing health care or related services during an emergency are immune from liability for good faith acts or omissions occurring while rendering emergency care, advice, or assistance.[196]

Hawaii takes a different approach. By statute, the state Department of Health is empowered to enter into agreements with health care providers, including health care entities, "to control an epidemic of a dangerous disease, which requires more physical facilities, materials, or personnel than the department has available."[197] When acting

pursuant to such an agreement, health care entities are not liable for any personal injuries or property damage resulting from the performance of their duties, absent willful misconduct.[198] Some states may also provide indemnification for civil liability judgments or settlements against health entities assisting during an emergency.

As previously discussed, MOUs are an important source of liability protection for hospitals. These agreements often assign legal liability for the acts of individual health care practitioners to the hospital who is the recipient of their services.[199] Thus, a hospital that regularly employs a physician acting under the agreement would not be vicariously liable for that physician's actions. Rather the host entity would bear that responsibility. In the assignment of legal liability, hospitals that are the recipients of assistance also agree not to hold donor hospitals liable for acts of negligence or omissions in their good faith response to a disaster.[200] Additionally "liability claims, malpractice claims, disability claims, attorneys' fees, and other incurred costs are the responsibility of the recipient hospital."[201] These provisions are also an important source of liability protections because they bar any liability claims between the party hospitals.

Finally, hospitals may reduce their risk of liability regardless of the available immunity or indemnification by engaging in good risk management practices. Hospitals and other health entities must develop and implement good selection and supervision policies applicable to volunteers during emergencies. Furthermore, these entities must be diligent in fulfilling corporate obligations to select, evaluate, and supervise the actions of employees and agents.

3.3.3 Administration of ESAR-VHP

Another area of potential civil liability arises from the administration of ESAR-VHP itself. As a state-based registry that provides actionable information on VHPs, it is conceivable that a person injured by a volunteer will seek damages from system administrators for negligence in screening that volunteer. If the ESAR-VHP is administered by state government, however, sovereign immunity may attach and preclude civil liability for the state or its employees, unless the applicable tort claims act (TCA) permits such a claim to proceed.

A more complex issue is the potential civil liability of a third party entity that administers ESAR-VHP on behalf of the state government. Under the doctrine of sovereign immunity, a state typically cannot be held liable for the negligent acts or omissions of its agents or employees unless the state consents to be sued, or statutorily waives immunity.[202] Sovereign immunity may extend to all arms of the state government, even public universities and hospitals.[203] Additionally, governmental officials are generally entitled to sovereign immunity for any official act which is discretionary in nature.[204] An official is entitled to the protections of this type of immunity when he performs a discretionary function, in good faith, and within the scope of his employment or authority.[205]

However, state sovereign immunity protections do not automatically cover private contractors even when performing quasi-public functions.[206] Thus, if a state assigns responsibility for administering ESAR-VHP to a private actor, this entity may not be

protected statutorily from liability. In some situations governmental immunity is extended to private contractors acting on behalf of the government.[207] For example, the U.S. Supreme Court extended federal governmental immunity from products liability actions to a private supplier of military equipment where:[208]

- the government approved reasonably precise product specifications,
- the equipment produced by the contractor conformed to those specifications, and
- the supplier warned the government about the dangers in the use of the equipment that were known to the supplier.

The court reasoned that, when private contractors are hired by the government, they should sometimes share in the protections of sovereign immunity for the same reasons that the government enjoys those protections.[209] States have also applied extended immunity to private contractors.[210] A New Jersey court held that the governmental immunity enjoyed by the Department of Transportation extended to a private road contractor who was acting at the behest of the government.[211] The court reasoned that "[t]he statutory immunity would be meaningless if a public entity's contractor which follows government specifications were held to the liability from which the public entity is shielded. Under these circumstances the contractor enjoys the same protection."[212]

Although these decisions may lead to arguments favoring immunity protections for private contractors administering ESAR-VHP, the general rule remains that immunity does not apply.[213] For these reasons, if a private entity were to administer the ESAR-VHP, the entity may be immune from liability for incidental damages related to the system, but not for negligent or willful actions. Contractual obligations may be determinative, or provide indemnification where liability may arise.

3.4 Workers' Compensation

3.4 Summary Points

- Absent a state law extending workers' compensation to a category of volunteers that covers ESAR-VHP, workers' compensation does not cover unpaid volunteers because they are not deemed "employees."
- Even if a state's law appears to cover ESAR-VHP, coverage may be denied if the statute is written too narrowly, the employer has not elected to cover volunteers, or the volunteer has failed to register properly with the appropriate governmental subdivision in which she may ultimately provide services.
- The existing "home" employer may not be liable for injuries its employee sustains volunteering services elsewhere if the employee's action is outside the course of employment with the "home" employer.
- If statutes extend coverage to ESAR-VHP, the temporary "host" employer is commonly defined as the applicable state or municipality. In the absence of such a statutorily defined employer, the "host" hospital or institution may be responsible for workers' compensation coverage. The ESAR-VHP will typically invoke the state law wherever the services that give rise to the injury occurred.
- Compensation is usually only available for occupational diseases if the risks of contracting the disease on the job are peculiarly increased compared with the risk of contracting the disease in

employment generally. In addition, the claimant will have to demonstrate that the disease was in fact contracted in the course of employment and not due to exposure outside the workplace.

Workers' compensation is a government administered system for providing limited benefits to victims for work-related injuries or death, regardless of fault.[214] Each state (and the federal government) has enacted workers' compensation laws, which require work-related injuries to be reported and compensated in accordance with specific guidelines.[215] Every injury or death which occurs at work is subject to administration under workers' compensation for covered employees, including "occupational diseases" such as infectious diseases for health care workers.[216] Generally the employer is liable if the employee sustains an injury that arises out of or occurs in the course of employment. Injured employees typically file claims for limited reimbursement for direct costs of medical treatment, lost wages, and resulting disabilities. Most claims are paid for by the employer's workers' compensation insurance company. Large employers, however, may be self-insured and administer their own claims.[217]

While injured employees are not obligated to pursue claims for compensation, there are several reasons why the pursuit of such claims may be necessary. Workers' compensation is often the exclusive remedy for injured employees.[218] Direct lawsuits against employers outside the workers' compensation system for work-related injuries are forbidden in most instances.[219] In most states, employers cannot unilaterally settle workers' compensation claims with injured employees without the approval of state workers' compensation administrators. In addition, financial considerations necessitate such claims when injuries are significant. Other forms of health insurance including private insurance policies, Medicaid and Medicare, and automobile personal injury protection, may deny claims for medical charges where a workers' compensation carrier is principally liable for these costs. Lost wages for time off work due to injury are compensable only where a claim is filed, and thus compensation for disabilities may only occur through filing a workers' compensation claim.[220]

The application of workers' compensation benefits to VHPs during emergencies raises several specific challenges. As a general matter, workers' compensation laws only cover "employees" and thus exclude unpaid volunteers or gratuitous workers. States may legislatively extend explicit coverage to certain volunteer workers. However, absent such provisions, the default is to exclude these workers from coverage. A second major challenge involves a determination of who during an emergency is the "employer" of a volunteer worker. Without knowing the location, type, or magnitude of emergency, it is difficult to establish which entity will be considered the volunteer's employer and which state's laws (or federal law) will apply if the volunteer leaves his or her regular place of employment or crosses state lines to provide services.

The first part of this section examines how ESAR-VHP would be treated under various states' workers' compensation laws and describes the default position for those states that lack provisions to cover volunteer health workers. The second and third parts address the workers' compensation liability of the volunteers' existing "home" and temporary "host" employers, respectively. Legal analysis varies by state and will likely be complicated if the volunteer is temporarily employed by an employer outside the

jurisdiction in which he or she maintains usual employment. The fourth part addresses some challenges in obtaining compensation for occupational diseases.

3.4.1 Limits on Activities within Scope of Employment

A threshold question is whether VHPs are considered covered "employees" under the applicable state statutes. Each state's law defines who are considered employees. Absent a provision to include VHPs as "employees," unpaid volunteer workers may not be covered by workers' compensation because they have not been "hired" for pay.[221] Payment does not have to be in the form of cash (e.g., discharge of debt, training, board) nor does it have to go directly to the worker, but some significant form of compensation for services must be provided by the employer for a person to be considered an employee.[222]

Courts have held in some narrow cases that an emergency situation may create a presumption of employment through an implied contract. The rationale is that in an emergency there is not time to pursue ordinary channels of hiring, and the worker coming to the aid of the employer is advancing the employer's interests, implicating an implied contract for hire.[223] However, this line of reasoning may not apply when the volunteer registers her willingness to offer services in an emergency before the emergency situation arises. If the relationship is created prior to the emergency, arguably traditional channels of employment could be followed. Thus, the general proposition that volunteers are not employees for workers' compensation purposes may stand unless statutory provisions provide otherwise. Appendix E summarizes workers' compensation coverage of volunteer emergency response personnel in the ESAR-VHP Phase I-III states.

Few states fully cover VHPs under workers' compensation provisions. Wisconsin, for example, extends the definition of employee broadly to include all "emergency management workers" even if they are volunteers,[224] so long as they have registered with the state's emergency management program.[225] Statutes in Connecticut, Illinois, and Ohio contain similarly broad provisions to include a range of volunteers responding to emergency situations.[226] These volunteers are usually coordinated through established state programs for "civil preparedness" or "emergency management." Their injuries would be covered whether they occurred in training exercises, preparation, or emergency responses. These volunteers typically have to meet certain requirements to be considered covered, such as the requirement for registration and oath of loyalty in Ohio and Illinois.[227]

Washington provides volunteer emergency workers with workers' compensation coverage when the individual is registered with an approved emergency management organization and is injured in the course of performing his volunteer duties.[228] Similarly, Maryland law provides workers' compensation protection to certain types of civil defense volunteers who are enrolled with the Department of Emergency Management.[229] The state is considered to be the employer of these individuals. These protections are not available in all counties, however, which leaves many volunteers unprotected.[230] Additionally, in Minnesota, volunteers who are registered with the state or a local government are considered employees of the relevant political subdivision for purposes of workers' compensation protection.[231]

In other states, VHPs may be excluded from coverage under a narrow statutory approach. West Virginia extends coverage to volunteers that further its Emergency Medical Services Act, but coverage is permissive, rather than mandatory, for employers.[232] Texas provides medical benefits, but not lost wages or disability benefits, for injuries sustained by volunteers responding to state disasters that are not otherwise covered by workers' compensation benefits in the volunteer's host state.[233]

In Virginia, a wide range of volunteers (e.g., lifesaving or rescue squad members, emergency medical technicians, search and rescue organizations, regional hazardous materials emergency response teams, community emergency response teams, and MRC) are provided with workers' compensation protections under limited circumstances.[234] These volunteers can be considered employees of the political subdivision in which the principal office of their supervisory organization is located if the governing body of that political subdivision has so authorized.[235] Thus, as in Maryland, protection for volunteers is limited by the willingness of political subdivisions to provide them with coverage.

Delaware, the District of Columbia, Louisiana, Massachusetts, Missouri, and New Mexico lack statutory provisions to extend workers' compensation coverage to volunteers of any sort. Missouri specifically excludes from workers' compensation all volunteers for non-profit organizations,[236] and Massachusetts excludes certified Red Cross volunteers who take time off to respond to disasters.[237] The District of Columbia lacks any provision for volunteers, so the default standard that unpaid volunteers are not employees likely applies.

Interstate mutual aid agreements also provide for workers' compensation protection for disaster service volunteers and emergency management workers. The ICCDC provides for injury and death benefits for members of civil defense forces of a party state who are rendering assistance in accordance with the compact's provisions.[238] The individual's home state is deemed to be responsible for compensation, even if the individual is rendering assistance in a different state.[239] EMAC provides similar coverage.[240] Additionally, SREMAC requires the home state to provide workers' compensation protections to their emergency forces, even if they are assisting in emergency response efforts in another state.[241]

Some states have indirectly suggested that MRC volunteers can be considered public employees for purposes of compensation from injuries incurred in the course of providing services during an emergency. In Connecticut, for example, compensation is due to members of civil preparedness forces (which includes MRCs), and for who such compensation is not so provided, i.e., volunteers. Moreover, these individuals shall "be construed as *employees*" to calculate compensation owed (emphasis added).

In sum, whether a volunteer worker is covered by workers' compensation laws depends greatly on the specific language of the applicable state. Even if it appears that VHP are covered, benefits may still be elusive if the statute is written too narrowly, the employer has not elected to cover volunteers, or the volunteer has failed to register properly with the appropriate governmental subdivision in which she may ultimately provide services. In addition, unlike other types of employees, the "employee" status of

VHPs may not apply across state lines, because state laws differ on the employee status of VHPs. Unless volunteers stay within the state in which they are registered and that state explicitly covers such volunteers as employees, VHPs may lack workers' compensation coverage. The absence of workers' compensation benefits poses a significant risk for workers who may face hazardous working conditions during emergencies.

3.4.2 Coverage Issues Related to Existing Employment

Existing "home" employers of persons who offer their services as VHPs may be concerned whether they are liable for workers' compensation if the employee is injured or killed while performing volunteer services elsewhere. The existing employer may not be liable for injuries that its employees sustain while volunteering services elsewhere if the employee's action is outside the course of employment with the existing employer.[242]

When are the actions of a VHP outside her course of employment? Courts will often look to whether the action is undertaken to advance the employer's interests.[243] It is unlikely that the act of volunteering to provide health services in a setting outside the usual place of employment (different hospital, different municipality or state) would be construed as advancing the existing employer's interests. Courts may conclude that the VHPs are not engaging in the activity to create good will for their home employers, nor are they seeking to advance their own training to benefit their home employers. Instead, courts could apply the basic rule that public service activities are not considered "in the course of employment."[244] Conversely, if the employer itself directed the employee to become a VHP or if the activities were conducted at the home employer's premises, the employee's actions could be found within the course of employment because it would be easier to conclude that the actions benefited the employer.

One additional complication is the fact that some VHPs may not have one clear employer at all. Some health professionals (e.g., surgeons, internists, nurses) contract to provide services to various hospitals or clinics, or provide services out of their own offices. Courts generally find that professionals such as doctors or nurses are employed when they are "regularly at the disposal of the employer to perform a portion of the employer's work, as distinguished from being available to the public for professional services on his or her own terms."[245] Establishing an employment relationship when the activity that gave rise to the injury occurred is essential to receiving workers' compensation coverage. It is less certain whether a health professional under contract at multiple health care institutions or providers is "employed" by any one entity. The final determination may depend on the scope of the contractual relationship.

3.4.3 Coverage Issues Related to Temporary Volunteer Status

As discussed in the previous section, the existing "home" employer is not typically liable for injuries or death sustained by a VHP providing services in a different setting. What about the "host" employer? Assuming the VHP is considered an employee under state law, the question arises as to which entity could be liable for these injuries. Is it the state or local government that organizes an emergency response plan and mobilizes personnel and resources? Is it the hospital that hosts the temporary volunteer? Or could

it be another source? These questions may be addressed statutorily. Laws in Arizona, California, Connecticut, Florida, Hawaii, Kentucky, Illinois, Ohio, Oregon, South Dakota, Vermont, West Virginia, and Wisconsin, for example, consider volunteer emergency management workers as employees of the applicable governmental subdivision – state, county, or municipality – that organizes the emergency response program.[246] In contrast, Texas does not classify volunteers for state disasters as "employees" and does not extend the full range of workers' compensation benefits to these volunteers unless the worker is already an employee of a state political subdivision.[247]

In the absence of a statutorily defined employer, the employment relationship depends on the circumstances. Can a "host" hospital or clinic be viewed as the employer of a visiting VHP? In the event that a statute defines VHPs as employees, but does not define the state or municipality as the employer, it may be concluded that the hospital or institution for which the VHPs are temporarily working could be considered the employer for workers' compensation purposes. One could analogize VHPs to volunteer firefighters. Some states, through statute or judicial interpretation, find that volunteer firefighters "partake sufficiently of the characteristics of an employee to be covered" as though they were paid employees of the fire company.[248] Similarly, one could argue that VHPs who render medical services for which other health professionals are ordinarily paid could be deemed employees of the host institution for whom the services are being performed.

Finally, in workers' compensation cases, issues often arise as to which state's law should apply. Concerning VHPs, the applicable state law will likely be that of the state in which the VHP volunteers, because the statutes tend to define VHPs as employees of the state or municipality. If the VHPs are covered as state employees, it may be unlikely that a volunteer could invoke statutory coverage from another state because state-created emergency response teams generally only have authority to operate within their own states. If an individual worker crosses state borders to participate in another state's emergency response team, that individual could be considered an employee of the host state for injuries sustained there.[249]

3.4.4 Coverage Issues for Occupational Diseases

One issue that is likely to arise in the context of workers' compensation coverage for VHPs is the degree of coverage provided for occupational diseases. Occupational diseases are of particular concern for VHPs because their injuries may be due to infectious diseases, especially in the event of a disease outbreak or bioterrorism attack. All states currently provide some form of coverage for occupational diseases,[250] but the definitions of occupational disease and breadth of coverage vary. In the broadest sense, occupational diseases are diseases contracted in the course of and resulting from employment. However, to receive compensation, most states also require (1) the employment involve peculiar or unusual risks of the disease—beyond that of the general population; and (2) the disease must be attributable to a contact that occurred on the job.[251]

Minnesota's statutory definition of occupational disease provides a good example of the analysis involved in determining whether an occupational disease shall be covered.

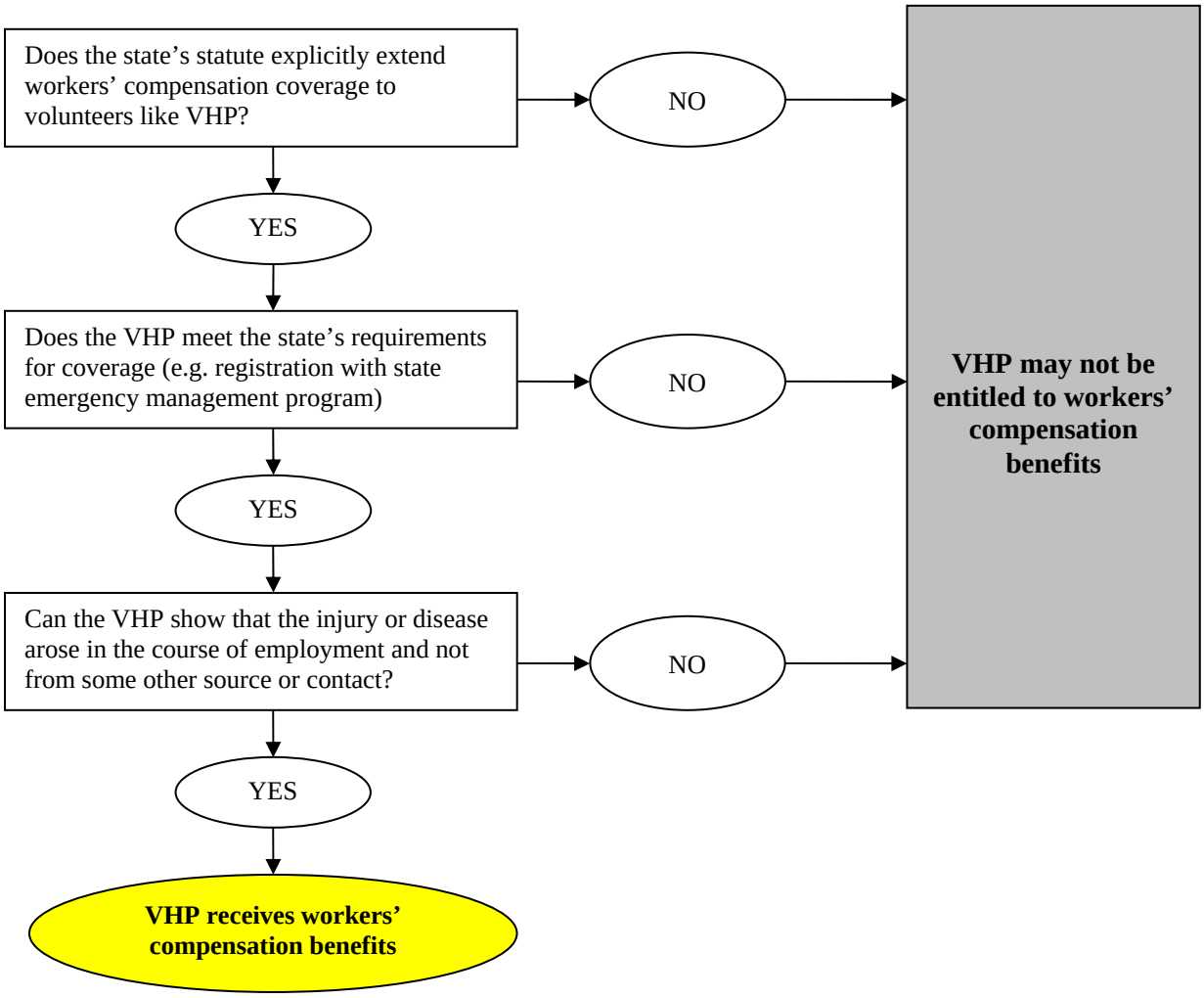
> "Occupational disease" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.[252]

For a list of definitions and coverage of "occupational disease" in workers' compensation statutes among the Phase I-III states, see Appendix J.

As a practical matter, during a disease outbreak or bioterrorist attack, it may be difficult for a VHP to prove that the disease was, in fact, contracted in the course of employment if many individuals in the general population were also susceptible to the disease or condition. The burden of proof to demonstrate that exposure on the job was the proximate cause of the disease will generally fall upon the worker.[253] In sum, the claimant has two large barriers to receiving compensation for occupational diseases: (1) compensation is generally only available for occupational diseases if the risks of contracting the disease on the job are peculiarly increased compared with the risk of contracting the disease in employment generally, and (2) the claimant will have to demonstrate that the disease was in fact contracted in the course of employment and not due to exposure outside the workplace.

Figure 6, below, demonstrates relevant questions applicable to whether VHPs will be eligible for workers' compensation coverage. Since state workers' compensation laws vary, these questions may not apply to the law in every state.

Figure 6. Workers' Compensation Coverage for ESAR-VHP



3.5 Criminal Liability

3.5 Summary Points

- In the context of ESAR-VHP, the criminal responsibility of an individual volunteer will be determined by the elements of the crime he or she is alleged to have committed, as defined by state or federal law.
- Each of the ten initial ESAR-VHP pilot states has its own statutory law protecting directors and/or volunteers of non-profit organizations from civil liability, but these laws provide no express protection from criminal responsibility.

3.5.1. Criminal Liability of Individuals

Where civil laws primarily govern disputes between private individuals or entities, criminal law encompasses wrongs that have been codified as crimes in federal and state statutes for which government, at the federal or state levels, is solely responsible for prosecuting. Criminal liability requires proof of a given set of elements. Many federal and state laws base the elements of their crimes on those provided by the Model Penal Code, promulgated by the American Law Institute.[254] The Model Penal Code itself is not a law—it serves as an example of a penal code.

Proving criminal liability requires government to prove, beyond a reasonable doubt, that the accused committed each of the listed elements of a crime.[255] The elements of the crime usually include a certain criminal state of mind (a.k.a. *mens rea*, and a proscribed action (a.k.a. *actus reus*).[256] For example, to hold an individual criminally liable for burglary in Connecticut, the state must show that he or she (1) entered or remained unlawfully in a building (i.e., the proscribed act) (2) with intent to commit a crime therein (i.e., the criminal state of mind).[257] Some crimes, known as strict liability crimes, do not require a criminal state of mind.[258] To be held criminally liable for a strict liability crime, an individual need only commit the proscribed act.[259]

In the context of ESAR-VHP, criminal responsibility of an individual volunteer will be determined by the elements of the crime he or she is alleged to have committed, as defined by state or federal law. As with civil liability, some state or federal laws may potentially insulate an individual from criminal responsibility, as discussed in Section 3.5.2.

3.5.2 Laws that Could Insulate a Person from Criminal Liability

State laws protecting volunteers and non-profit directors. Each of the ten initial ESAR-VHP pilot states features statutory laws protecting directors and/or volunteers of non-profit organizations from certain forms of liability. However, two factors substantially limit the value of this immunity in the context of criminal liability: 1) each state insulates directors from civil liability but no protection from criminal responsibility is expressly provided; and 2) even in the case of civil liability, each state expressly removes from the scope of protection—using somewhat different language from state to state—conduct that is willful, malicious, reckless, wanton, or intentional. This suggests that these states do not intend to insulate people from criminal conduct. These same limitations are also generally applicable to Good Samaritan statutes (as discussed in Section 3.3.1.3, above). Of course, there remains some state-to-state variation in these laws. For example, in Iowa, a health care provider who provides free medical services is considered an employee of the state and enjoys the same liability protection that an employee would enjoy.

As discussed in Sections 3.2.1.4 and 3.3.1.4, above, EMAC provides for mutual assistance between the states entering into this compact to manage declared emergencies or disasters.[260] While EMAC immunizes state officers and employees from civil liability for acts or omissions in good faith, it would not control in a criminal liability context—

the compact does not offer immunity for "willful misconduct, gross negligence, or recklessness."[261]

Like EMAC, MSEHPA (discussed in Section 3.1) offers a range of immunity protections for civil liability among a host of actors, but excludes from these protections those acts that may constitute "gross negligence or willful misconduct."[262] States that adopt similar provisions in whole or in part have not materially altered pre-existing statutory rules regarding *criminal* responsibility.

*Federal laws protecting volunteers and non-profit directors***.** As discussed in Section 3.3.1.1, the federal Volunteer Protection Act[263] immunizes volunteers of nonprofit organizations and governmental entities from civil liability that arises from their service. However, the VPA does not provide immunity for harms "caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer, or for harm caused by operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires its operator to possess an operator's license or maintain insurance."[264]

*Sovereign immunity***.** As discussed in Section 3.3.1.2, sovereign immunity applies to government's immunity from civil suits. Public officers and employees may experience a similar type of immunity when they are acting as government agents. However, sovereign immunity does not generally extend to public actors when they commit intentional acts. In addition, no immunity is allowed when public actors, while taking discretionary action, act "willfully, with malice, or with corrupt motives."[265] Some states even deny immunity to public actors whose acts or omissions "are with malicious purpose, in bad faith, or committed in a wanton or reckless manner."[266] For these reasons, sovereign immunity offers virtually no protection from criminal liability in the ESAR-VHP scenarios.

3.6 Other Legal Issues

Health Information Privacy

Planning, preventing, and responding to a potential or actual emergency event requires coordination and information sharing among public health and environmental authorities, law enforcement and national security officials, private sector health care workers and hospitals, medical suppliers, pharmacists, and media. Health care workers and volunteers (e.g., physicians, nurses, lab technicians, pharmacists) need identifiable data to provide clinical, therapeutic, or pharmaceutical care. Public health authorities need identifiable data to protect the public's health through epidemiologic or environmental investigations, surveillance, laboratory testing, and other activities.

In public health emergencies, including bioterrorism events, options for exchanging non-identifiable data may be limited. Public health authorities may not have sufficient time or resources to selectively deidentify some patient health information prior to its exchange. The use of non-identifiable health data may also lead to inaccuracies or duplications that may thwart prevention or response efforts. For example, public health authorities may need to instantly and accurately verify the numbers of persons who may

have contracted a contagious condition. Fully-identifiable health information not only facilitates these efforts, its sharing offers opportunities for public health authorities to efficiently provide assistance to those in need or at risk. Federal, state, and local health information privacy requirements should be carefully considered in planning for emergencies to assess how they may address the practical need for uses and disclosures of identifiable information in emergency situations.

The protection of health information privacy is now federally regulated by the Privacy Rule, 45 CFR Parts 160 and 164, promulgated by DHHS pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996.[267] Information about the application of the Privacy Rule to public health and research uses and disclosures of identifiable health data is available from CDC[268] and DHHS' Office of Civil Rights on their respective websites, as well as from other federal agencies (e.g., FDA, NIH, CMS, OHRP).

Additional protections of health information privacy may be found in state and local privacy laws and public health departmental (or other state agency) policies. These varied privacy and security provisions address the responsible acquisition, use, disclosure, and storage of identifiable health data by public health authorities, health care providers, insurers, and others. Individual and communal interests in these health data are often weighed in an effort to protect the public's health while respecting individual privacy. Specific legal research and succinct explanatory guidance are needed at the state and local levels to assess privacy laws and policies, as well as exceptions thereto, that may impact ESAR-VHP efforts to determine when communication or disclosures of protected identifiable patient information may be lawfully made during public health emergencies.

3.6.2 Right to Reemployment

In emergency situations, under ESAR-VHP, health care volunteers may be called away from their employment to respond to requests by a hospital or other entity in another jurisdiction. The practitioner must be assured that leaving his position to respond to the emergency will not jeopardize the status of his privileges at the hospital. Some states have enacted laws that provide reemployment protection to individuals providing emergency response services. In addition, the federal government has adopted similar reemployment protections. For example, individuals who are members of federal governmental emergency response teams, such as a Disaster Management Assistance Team or Disaster Assistance and Response Team composed of civilian medical personnel, are given job, seniority, and wage protection in accordance with federal law when they are deployed for disaster response.[269]

3.6.2.1 Uniformed Services Employment and Reemployment Rights Act

Generally, all uniformed service personnel employees, whose absence from a position of employment is necessitated by reason of service in the uniformed services, including the Army or Air National Guard, the armed forces, the Public Health Service Commissioned Corps, and any other category of persons designated by the President in time of war or national emergency enjoy a right to reemployment.[270] The Uniformed

Services Employment and Reemployment Rights Act (USERRA) provides reemployment protection to non-career members of the uniformed service who are called up for duty. Employees who are called up for uniformed service to complete such service are generally entitled to reemployment upon the termination of the uniformed service, unless doing so would impose an undue hardship on the employer or the employer's circumstances have changed so much as to make reemployment impossible or unreasonable.[271] Under this provision, if a health care practitioner who is in the National Guard or Reserves is called up on active duty to provide medical services, they will enjoy the right to return to their position upon completion of their service.

An employer's obligations differ based on the period of the employee's uniformed service. If the employee's uniformed service is for less than 31 days, the employer must reemploy him immediately upon his return from service. If the employee's service is for 31 to 180 days, the employee must ordinarily apply to his employer for reemployment within 14 days of the completion of uniformed service. A period of service of more than 180 days requires the employee to submit an application for reemployment within 90 days of the completion of service. If an employee fails to meet the requirements for reporting and applying for reemployment, then the employee does not automatically forfeit any rights to reemployment. Rather, the employee becomes subject to the conduct rules, policies, and general practices of the employer regarding discipline with respect to absences from work, which apply to civilian employees.[272]

USERRA also provides for protection from termination upon the return to work after uniformed service. If the employee's period of service was for more than 180 days, the employer may not terminate the employee for at least one year after the date of reemployment, except for cause. If the employee's period of service was between 30 and 181 days, the employee may not be discharged for at least 180 days upon his return from work.[273]

USERRA also protects an employee's seniority rights and benefits during his period of absence. A resulting employee is entitled to the same seniority rights and benefits as that person had on the date of the commencement of service plus any additional rights and benefits that the employee would have obtained if the person had remained continuously employed.[274] For employees absent for less than 91 days, such seniority rights include the right to be reemployed in the position that he would have held if he had been continuously employed and was qualified to perform.[275] Otherwise, the employee must be reemployed in the same position that he held prior to the commencement of uniformed service.[276]

During an employee's period of uniformed service, the employer must treat the employee as though he is on furlough or leave of absence. The employee is entitled to all rights and benefits accorded to other employees on furlough or leave of absence not related to such service. Although an employee may choose to do so, an employer is not permitted to require an employee to use vacation, annual or similar leave with pay during his period of uniformed service. While an employee is performing his uniformed service, the employer is required to provide that employee with funded benefits only to the extent

that such benefits would be provided to other employees on furlough or leave of absence.[277]

To take advantage of the protections provided by USERRA, an employee must give his employer proper written or verbal notice prior to taking a leave of absence for uniformed service.[278]

3.6.2.2 State Protections for Disaster Service Volunteers

Generally, USERRA will preempt state law unless state law provides greater protections to non-career members of the National Guard or Reserves.[279] Some states also have offered limited employment protections for practitioners responding to a public health emergency. Wisconsin, for example, provides job protections to individuals called up for active service with the National Guard or the State Laboratory of Hygiene.[280] Protection for active service with the State Department of Hygiene applies to service provided to the Department of Health and Family Services in a declared public health emergency.[281] Wisconsin requires employers to immediately reemploy individuals called up for active service for less than 91 days to the position they held prior to the commencement of uniformed service.[282] Employees absent for more than 90 days must be reemployed in the same position or a position of like seniority, status, and pay.[283] Additionally, employers are required to provide health benefits for the first eighteen months of service.[284]

Some states have adopted Disaster Service Volunteer Leave Acts, which provide state employees who are disaster service volunteers with employment protection to permit them to assist in disaster response activities. [285] However, the scope of these laws may be limited to volunteers with the American Red Cross, and only provides job protection for a limited period of time, usually 15 days.[286] Illinois has extended its Disaster Service Volunteer Leave Act to cover certified disaster service volunteers working with the state's Emergency Management Agency.[287]

3.6.3 Tribal Lands

Tribal nations enjoy a special relationship with state and federal governments, giving rise to unique legal considerations in relation to the use of volunteers in emergencies Although tribal nations are considered sovereign nations with certain rights of self-determination, their authority to govern themselves is subordinated to that of Congress.[288] Tribal governments are unlike state executive agencies and local governments which have been established and vested with public health powers via state constitutions and statutory laws. Tribal governments are not "established" pursuant to state law. Rather, their legal existence and many of their public health powers derive from the federal government.

The federal government's relationship with the American Indians is truly the product of compromise. In the mid 1800s, American Indians executed treaties with the United States that turned over vast quantities of Indian land to federal control. In return, American Indians were granted limited set-asides of land (reservations), were allowed to form sovereign tribal governments, and were to receive direct federal assistance. As

sovereigns, tribal governments retained the traditional powers of government, including the power to act in the interest of public health. However, protecting the health of the community among tribal populations has traditionally been a shared venture between federal, state, and tribal governments.

Pursuant to the Snyder Act of 1921,[289] Congress directly assumed responsibility for the provision of health care to tribal governments. Such federal assistance continues today through long-term commitments for comprehensive health services administered by the Indian Health Service (IHS) of the federal Department of Health and Human Services (DHHS), and to a lesser extent, the Department of Interior Bureau of Indian Affairs (BIA). Congress has legislatively strengthened its commitment to provide health care benefits to American Indians through the Indian Self-Determination and Education Assistance Act of 1975[290] and the Indian Health Care Improvement Act of 1976.[291] Together these Acts clarified federal objectives for the provision of health-related services and encouraged the direct involvement of tribal governments in planning and operating health programs.

In 1992, Congress began the IHS Tribal Self-Governance Demonstration Project.[292] This Project specifically authorizes IHS and BIA to execute agreements (or compacts) with American Indians for the purpose of providing federal funds for health programs and facilities without significant federal oversight. Under this law, general management and supervision of such programs and facilities are left to the tribal governments. As a result, setting of public health goals and objectives are increasingly the responsibility of tribal governments. This movement toward self-governance was permanently solidified with the Congressional enactment of the Tribal Self-Governance Amendments Act of 2000.[293]

Federally recognized tribes may receive their funds directly from IHS. They can use the funds for specific heath programs within their discretion, provided the spending is consistent with the general conditions for federal funding. This flexibility allows local tribal governments to target and respond to differing health needs across their populations.

In the context of emergency management planning, the federal government maintains a government-to-government relationship with tribes in recognition of the tribes' rights to set their own goals for the welfare of their membership.[294] Tribes maintain their own emergency management plans and emergency response resources, including medical personnel. However, the structure of federal emergency management funding mechanisms can deter tribes' abilities to participate in emergency management programs. For example, tribes are considered local governments under the Stafford Act,[295] which is the foundation for disaster assistance from the federal government. The Stafford Act, however, only provides for disaster assistance to states.[296] Tribes then have to request disaster funding directly from the states, which states might not permit.[297]

Additionally, in the case of a disaster occurring on tribal lands, states may be asked to provide assistance in response efforts. State ESAR-VHP volunteers may be needed in these response efforts. The ability of the state to provide volunteer resources will depend on the nature of the relationship between the tribe requesting assistance and

the state government. For example, in Minnesota, if a disaster occurs on tribal lands, before declaring an emergency, the state governor must consult with tribal authorities.[298]

Much of the emergency management coordination between tribal nations and local, state and federal governmental agencies occurs through mutual aid agreements. For example, Pueblo of Laguna (New Mexico) maintains a Tribal Emergency Response Commission (TERC), which is responsible for emergency preparedness coordination.[299] The TERC has entered into several mutual aid agreements with local governments, other tribal nations, the IHS, and private corporations to facilitate communication, coordination, and consultation for emergency response.[300] These agreements provide for resource sharing including equipment and volunteers.[301] FEMA has also developed a MOU to form Tribal Emergency Management Coordinating Councils to coordinate emergency response efforts among Federal and tribal governments.[302] The ability of tribes to take advantage of state medical resources which may be provided through ESAR-VHP will depend on the nature of these mutual aid agreements and the other mechanisms for emergency response coordination.

In addition to tribal emergency planning, IHS also maintains emergency management plans for their facilities which may be called upon to provide medical assistance during emergencies. These plans must be consistent with local community plans and developed in consultation with local civil defense and health officials.[303] Additionally, they must include emergency assignments of personnel to key emergency management roles.[304] IHS' medical facilities are to be made available to local and federal emergency management authorities for use in medical response efforts.[305] Thus, if these facilities are overwhelmed with patients, ESAR VHP volunteers may be needed to supplement available medical resources.

As sovereign governments, tribal nations may also feature legal provisions concerning civil liability and workers' compensation protections. For example, Tulalip Tribes of Washington have enacted a workers' compensation system to provide protection to tribal employees.[306] Some tribes coordinate with states to establish workers' compensation programs for tribal officials. These tribal legal protections may be apply to volunteers who are acting within the tribal jurisdiction during emergency responses.

3.6.4 Legal Issues Concerning MRC Integration

A host of legal tools may facilitate the integration of ESAR-VHP programs with MRCs (and potentially other emergency volunteer services or organizations). Compacts and memorandum of understanding ("MOUs") may be particularly helpful. While compacts typically refer to formalized agreements, or contracts, between state or local governmental entities, MOUs may be less formal expressions of the expectations between two or more entities. Parties may include within MOUs clearly defined purposes, coupled with appropriate terms and conditions, demarcating their respective expectations and obligations. MOUs may later form the basis of a more formal contract that often includes standard terms and conditions that afford legal protections during the course of the work being performed.

Some states legislatively require their public health departments to execute MOUs with MRC units. Vermont, for example, passed a bill in 2005 requiring its Department of Public Health to "execute an MOU with the MRC of Southwestern Vermont" to specify the relationships, responsibilities, and protections—including liability and workers' compensation—offered while performing emergency duties and functions under the Department's direction.[307] The Vermont MOU outlines a range of obligations and requirements, including:

- recruiting and training of volunteers with skills and qualifications commensurate with their assigned duties;
- maintaining a current list of enrolled volunteers;
- deploying members upon request of the State;
- notifying the authorized agency that oversees relief efforts when in training; and
- providing the authorized agency that oversees relief efforts with a list of volunteers who were deployed for any reason to assist in the provision of healthcare services.[308]

Other states have incorporated MRCs within statutes that protect VHPs during an emergency. In Utah, for example, the Health Care Providers Immunity from Liability Act provides that members of an MRC are not liable for any civil damages as a result of any acts or omissions performed in rendering emergency care. Although the statutory language may be slightly different across state lines, states that afford MRCs immunity from liability are often consistent in the scope of coverage provided (e.g., immunity from civil liability for injuries to a person or for damage to property as a result of acts or omissions rendered in the course of service during a declared emergency). Immunity does not extend to conduct attributable to gross negligence, wanton misconduct, or intentional wrongdoings.[309]

Some states have neither (1) required a state agency to execute an MOU with an MRC, nor (2) incorporated MRCs within their emergency statutes. Rather, they provide advisory opinions from state agencies that suggest the potential liability of MRCs during an emergency and the protections afforded under existing statutes. In Alabama, for example, the Office of the State Attorney General issued an advisory opinion on the liability of MRCs during an emergency. The opinion cited the relevant portions of the Emergency and Volunteer Acts of the Alabama that afforded immunity from tort liability for volunteers, specifically including medical professionals participating in MRCs[310]

4.0 UNIVERSAL CHECKLIST FOR ESAR-VHP LEGAL AND REGULATORY ISSUES

Purpose. The Checklist (see Figure 7, below) serves as a tool for identifying, assessing, and clarifying relevant legal and regulatory issues related to implementation and organization of ESAR-VHP.

Organization. This Checklist presents a series of questions within five broad subject categories that encompass the primary legal issues related to the establishment of ESAR-VHP: I. Emergency Declarations; II. Licensing, Credentialing, and Privileging; III. Civil Liability, Immunity, and Indemnification; IV. Workers' Compensation; and V. Criminal Liability. Each of these categories is indicated in the first column of the Checklist. The second column, Checklist Questions, presents core questions organized within each subject matter area and other subcategories.

Suggestions for Use. This Checklist is designed for use by government officials at the state and local levels, their public and private sector partners, and others who are responsible for, or interested in, assessing legal preparedness concerning ESAR-VHP.

Users should view the questions as guides to the key legal issues within each topical area. Specific, additional questions may arise from the exploration of these issues within each jurisdiction. Users may benefit from a deliberative, committee-oriented process to respond to each of the various questions. This process may provide greater opportunities for information sharing, relationship building, and comprehension.

Disclaimer. Nothing within this Checklist is meant to provide specific legal guidance or advice to any user of these documents. Rather, as noted above, this Checklist is meant to serve as a helpful tool for assessing these legal issues within the user's specific jurisdiction. Legal advice on the issues discussed is necessarily fact-specific and may vary depending upon state or local law, the nature of the grantee, and the specific circumstances involved. For specific requests for legal advice, HRSA suggests that each grantee contact its state's Office of the Attorney General or its institution's legal counsel.

Figure 7. Universal Checklist for ESAR-VHP Legal and Regulatory Issues

Subject Category	Checklist Question	√
I. Emergency Declarations		
A. Public Health Emergencies		
	1. Has the state or local government adopted a statutory or regulatory definition of a "public health emergency" or other similar terms (e.g., public health crisis or catastrophe)?	
	2. Does the state or local government have procedures that must be followed for the governor or other primary political authority to declare a public health emergency?	
	3. Do the procedures to declare a public health emergency require specificity as to the type, nature, location, and duration of the emergency?	
	4. Once a public health emergency has been declared, is there statutory or regulatory authority to grant specific emergency powers to state or local public health agencies and other relevant entities to facilitate emergency response efforts?	
	5. Do public health emergency powers granted include immunity or indemnification for VHPs who are assisting in emergency response efforts?	
	6. Does the state statutorily define the term "volunteer" (or other similar terms) to include health professionals within an emergency management context?	
	7. Is there statutory or regulatory authority that permits the governor or other political authority to terminate the public health emergency or provide for automatic termination once certain conditions are met?	
B. General Emergencies		
	8. Has the state or local government adopted a statutory or regulatory definition of an "emergency" and/or "disaster" (or other similar terms)?	
	9. Does the state or local government have an emergency management system in place?	
	10. Does the state's or local government's general emergency provision also cover emergencies that affect public health?	
C. Dual Declarations		
	11. Has the state or local government adopted conflicting statutory or regulatory definitions of a "public health emergency," "general emergency," and/or "disaster"?	
	12. Do state or local laws and regulations grant authority to different agencies based upon a declaration of "public health emergency" or "general emergency?"	
	13. Does the statutory or regulatory scheme require or provide for coordination of emergency response efforts among the various state and local agencies involved in the emergency response efforts?	
II. Licensing, Credentialing And Privileging		
A. Licensure Requirements		
	14. What types of professionals are required to have state licensure or certification to practice in the state?	

Subject Category	Checklist Question	√
	15. Does state law provide for civil and/or criminal penalties for health care professionals who practice without a license?	
	16. Has the state adopted provisions for reciprocity of state licensure and/or certification requirements for health professionals acting in response to an emergency, including physicians, nurses, and behavioral health professionals, who are licensed in another state (e.g., MSEHPA, MNPA, EMAC)?	
	17. Has the state entered into reciprocity agreements or compacts providing for the recognition of out-of-state licenses and/or certifications for health professionals (e.g., NLC, CPQ)?	
B. Credentialing and Privileging Requirements		
	18. Does state law require hospitals to establish medical staff bylaws including provisions for credentialing and privileging in response to emergencies or disasters?	
	19. Are hospitals required to adopt disaster privileging policies that comply with JCAHO requirements?	
	20. Does state law require hospitals to have an emergency management plan that governs the hospital's response to a declared emergency?	
III. Civil Liability, Immunity and Indemnification		
	21. Are civil liability protections explicit in the state or local public health emergency statutes and regulations or other relevant laws?	
	22. Has the state entered into any intrastate or interstate mutual aid agreements that address civil liability (e.g., EMAC, IEMAC, MIMAL)?	
	23. Does the state tort claims act abrogate sovereign immunity for state actors related to emergency response activities?	
	24. Does the state tort claims act provide civil liability protection for "discretionary acts" by state actors (e.g., government public health agencies, responders and volunteers working on behalf of the state, private sector entities working under contract with the state) during emergencies?	
	25. Do conflicts of laws rules address which state's law will apply when an out-of-state health care volunteer commits an act giving rise to liability in another state?	
A. Volunteer Health Professionals		
	26. Does state law explicitly provide VHPs with immunity from civil liability (e.g., Volunteer Protection Acts, Good Samaritan Laws, State Emergency Statutes and Compacts) when responding to an emergency?	
	27. Does the state Volunteer Protection Act provide volunteers with liability protections that exceed protections provided by the Federal Volunteer Protection Act?	
	28. Do state sovereign immunity protections apply to the actions of VHPs that are employees of the state?	
	29. Does the state Good Samaritan law apply to the actions of VHPs, and, if so, under what circumstances?	
	30. Do state emergency statutes or compacts (e.g. MSEHPA, MIMAL, EMAC) provide civil liability protection for VHPs?	
	31. Do state laws that provide VHPs with immunity from civil liability apply to compensated and uncompensated volunteers?	
	32. Are there exceptions to civil liability protections for VHPs for acts that rise to the level of gross negligence, recklessness, or willful or wanton misconduct?	
	33. Are entities employing VHPs, including governmental agencies, required to defend and indemnify volunteers for tortious acts committed within the scope of their duties?	
B. Health Care Entities		
	34. Do health care entities face potential civil liability for their own tortious acts committed in association with the use and application of ESAR-VHP?	
	35. Do health care entities face potential civil liability for the tortious acts of their employees, agents, and volunteers?	

Subject Category	Checklist Question	√
	36. Does state law immunize health care entities utilizing volunteers who engage in negligent acts (e.g., Volunteer Protection Acts, Good Samaritan Laws, State Emergency Statutes and Compacts)?	
	37. Does state law immunize health care entities for negligent acts associated with the use and/or administration of ESAR-VHP?	
C. Administrators of the ESAR-VHP System		
	38. Do state sovereign immunity protections apply to governmental agencies administering ESAR-VHP?	
	39. Do state sovereign immunity protections apply to private contractors associated with the administration of ESAR-VHP?	
IV. Workers' Compensation		
	40. Is a VHP recognized by state law as an employee of the state or health care entity for whom he/she is providing emergency health care services?	
	41. Are VHPs required to register with the state or other political subdivision to qualify for workers' compensation benefits for injuries sustained in the performance of their duties?	
	42. Are existing "home" employers of VHPs required to provide workers' compensation coverage for injuries sustained in the course of performing their duties as a volunteer?	
	43. Do conflicts of laws rules provide guidance as to whether the workers' compensation laws of the home or host state apply to an out-of-state VHP's claims for injuries sustained in the course of his/her duties?	
	44. Do the applicable workers' compensation laws provide for the coverage of occupational diseases contracted in the course of the performance of volunteer activities (e.g., outbreaks of infectious diseases, bioterrorist attacks)?	
V. Criminal Liability		
	45. Does state law provide for criminal penalties for health professionals practicing their trade without a license?	
	46. Are criminal actions exempted from the immunity protections granted to health care volunteers under Volunteer Protection Acts, Good Samaritan Laws, and State Emergency Statutes and Compacts?	
	47. Do sovereign immunity protections apply to criminal actions engaged in by employees or agents of the state?	

CONCLUSION

Multiple collaborative efforts across the United States aimed at improving emergency preparedness have strengthened our public health and health care infrastructure to respond to bioterrorism and other public health emergencies. The ESAR-VHP program recognizes the important role of VHPs in emergency response and the necessity of a comprehensive state-based registry system to facilitate the utilization and sharing of volunteers during an emergency.

Understanding legal powers and authorities is integral to the development of an ESAR-VHP. This report identifies five major areas of law that may impact the creation or operation of an ESAR-VHP: 1) the effect of a declaration of emergency; 2) licensing, credentialing, and privileging of health personnel; 3) civil liability of volunteers, organizational entities, and system administrators; 4) workers' compensation coverage for volunteers and the corresponding responsibilities of their employers or hosts; and 5) potential criminal liability of volunteers or organizations. Additional tables, found in the Appendices, provide specific key statutes and regulations for all ESAR-VHP Phase I-III states. The Checklist in Section 4.0 provides a systematic means of proactively assessing these legal issues.

Although the legal discussions and subject matter in this Report are extensive, HRSA suggests that each grantee contact its state's Office of the Attorney General or its institution's legal counsel for specific legal advice and guidance.

APPENDICES

APPENDIX A

Definitions of Public Health Emergency in ESAR-VHP Phase I-III States

State	Definition of "Public Health Emergency"	Citation
Alabama	"Public health emergency" is not specifically defined in Alabama laws or administrative regulations.	
Alaska	"Public health emergency" is not specifically defined in Alaska laws or administrative regulations. However, "*condition of public health importance*" is defined as a disease, syndrome, symptom, injury, or other threat to health that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community.	Alaska Stat. § 18.05.070 (Michie 2005)
Arizona	A state of emergency or state of war emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.	Ariz. Rev. Stat. § 36-787 (2006)
Arkansas	"Public health emergency" is not specifically defined in Arkansas laws or administrative regulations.	
California	"Public health emergency" is not specifically defined in California laws or administrative regulations. Conditions of a state of emergency or local emergency include epidemics and disease.	West's Ann.Cal.Gov. Code § 8558 (2005)
Colorado	"Public health emergency" is not specifically defined in Colorado laws or administrative regulations.	
Connecticut	An occurrence or imminent threat of a communicable disease, except sexually transmitted disease, or contamination caused or believed to be caused by bioterrorism, an epidemic or pandemic disease, a natural disaster, a chemical attack or accidental release or a nuclear attack or accident that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.	Public Act No. 03-236
Delaware	An occurrence or imminent threat of an illness or health condition that: (a) Is believed to be caused by any of the following: (1) Bioterrorism; (2) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; or (3) A chemical attack or accidental release; and (b) Poses a high probability of any of the following harms: (1) A large number of deaths in the affected population; (2) A large number of serious or long-term disabilities in the affected population; or (3) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.	Del. Code Ann. tit. 20, § 3132(11) (2006)
District of Columbia	Imminent hazard of or actual occurrence of: (1) a large number of deaths in the District of Columbia; (2) a large number of serious or long-term disabilities in the District of Columbia; (3) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the District of Columbia; or (4) use, dissemination, or detonation of a weapon of mass destruction, as defined by Chapter 31A of Title 22, in the District of Columbia.	D.C. Code Ann. § 7-2304.01 (2002)

State	Definition of "Public Health Emergency"	Citation
Florida	Any occurrence, or threat thereof, whether natural or man made, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Prior to declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration.	West's F.S.A. § 381.00315 (2002)
Georgia	Occurrence or imminent threat of an illness or health condition that is reasonably believed to be caused by bioterrorism or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin and poses a high probability of any of the following harms: (A) A large number of deaths in the affected population; (B) A large number of serious or long-term disabilities in the affected population; or (C) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.	Ga. Code Ann., § 38-3-3 (2005)
Hawaii	"Public health emergency" is not specifically defined in Hawaii laws or administrative regulations.	
Idaho	"Public health emergency" is not specifically defined in Idaho laws or administrative regulations.	
Illinois	Occurrence or imminent threat of an illness or health condition that: (a) is believed to be caused by any of the following: (i) bioterrorism; (ii) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; (iii) a natural disaster; (iv) a chemical attack or accidental release; or (v) a nuclear attack or accident; and (b) poses a high probability of any of the following harms: (i) a large number of deaths in the affected population; (ii) a large number of serious or long-term disabilities in the affected population; or (iii) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.	20 Ill. Comp. Stat. 3305/4 (2003)
Indiana	"Public health emergency" is not specifically defined in Indiana laws or administrative regulations, though the term "public health emergency" is included in Indiana's definition of *disaster*.	
Iowa	"Public health disaster" means a state of disaster emergency proclaimed by the governor in consultation with the department pursuant to section 29C.6 for a disaster which specifically involves an imminent threat of an illness or health condition that meets any of the following conditions of paragraphs *"a"* and *"b"*: *a.* Is reasonably believed to be caused by any of the following:(1) Bioterrorism or other act of terrorism; (2) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; (3) A chemical attack or accidental release; (4) An intentional or accidental release of radioactive material; or (5) A nuclear or radiological attack or accident. *b.* Poses a high probability of any of the following: (1) A large number of deaths in the affected population; (2) A large number of serious or long-term disabilities in the affected population; or (3) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of the affected population.	Iowa Code Ann. § 135.140 (West 2006)
Kansas	"Public health emergency" is not specifically defined in Kansas laws or administrative regulations.	
Kentucky	"Public health emergency" is not specifically defined in Kentucky laws or administrative regulations.	

State	Definition of "Public Health Emergency"	Citation
Louisiana	An occurrence or imminent threat of an illness or health condition that: (a) Is believed to be caused by any of the following: (i) Bioterrorism; (ii) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; (iii) A disaster, including but not limited to natural disasters such as hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents or nuclear attack, hazardous materials incidents, accidental release or chemical attack, oil spills, explosion, civil disturbances, public calamity, hostile military action, and other events related thereto; and (b) Poses a high probability of any of the following harms: (i) A large number of deaths in the affected population; (ii) A large number of serious or long-term disabilities in the affected population; (iii) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.	La. Rev. Stat. Ann. § 29:762 (West 2006)
Maine	"Extreme public health emergency" means the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of the State.	Me. Rev. Stat. Ann. tit. 22, § 801 (West 2006)
Maryland	"*Catastrophic health emergency*" means a situation in which extensive loss of life or serious disability is threatened imminently because of exposure to a deadly agent.	MD Code, Public Safety, § 14-3A-01 (2005)
Massachusetts	"Public health emergency" is not specifically defined in Massachusetts laws or administrative regulations. Governor may declare that "an emergency exists which is detrimental to the public health."	M.G.L. c. 17. § 2A
Michigan	"Public health emergency" is not defined in Michigan laws or administrative regulations.	
Minnesota	"Public health emergency" is not defined in Minnesota laws or administrative regulations.	
Mississippi	"Public health emergency" is not defined in Mississippi laws or administrative regulations.	
Missouri	"Public health emergency" is not defined in Missouri laws or administrative regulations.	
Montana	"Public health emergency" is not defined in Montana laws or administrative regulations.	
Nebraska	"Public health emergency" is not defined in Nebraska laws or administrative regulations.	
Nevada	"Public health emergency" is not defined in Nevada laws or administrative regulations related to emergency management.	
New Hampshire	"Public health emergency" is not defined in New Hampshire laws or administrative regulations.	
New Jersey	"Public health emergency" means an occurrence or imminent threat of an occurrence that: (a) is caused or is reasonably believed to be caused by any of the following: (1) bioterrorism or an accidental release of one or more biological agents; (2) the appearance of a novel or previously controlled or eradicated biological agent; (3) a natural disaster; (4) a chemical attack or accidental release of toxic chemicals; or (5) a nuclear attack or nuclear accident; and (b) poses a high probability of any of the following harms: (1) a large number of deaths, illness or injury in the affected population; (2) a large number of serious or long-term impairments in the affected population; or (3) exposure to a biological agent or chemical that poses a significant risk of substantial future harm to a large number of people in the affected population.	NJ Stat. Ann. § 26:13-2 (2005)
New Mexico	Occurrence or imminent threat of exposure to an extremely dangerous condition or a highly infectious or toxic agent, including a threatening communicable disease, that poses an imminent threat of substantial harm to the population of the state of New Mexico or any portion thereof.	N. M. S. A. 1978, § 12-10A-3 (2005)
New York	"Public health emergency" is not defined in New York laws or administrative regulations.	
North Carolina	"Public health threat" means a situation that is likely to cause an immediate risk to human life, an immediate risk of serious physical injury or illness, or an immediate risk of serious adverse health effects.	N.C.G.S.A. § 130A-475 (2005).
North Dakota	"Public health emergency" is not defined in North Dakota laws or administrative regulations.	
Ohio	"Public health emergency" is only defined in Ohio regulations as related to asbestos abatement. There is no general definition of public health emergency.	

State	Definition of "Public Health Emergency"	Citation
Oklahoma	"*Catastrophic health emergency*" means an occurrence of imminent threat of an illness or health condition that: a. is believed to be caused by any of the following: (1) a nuclear attack, (2) bioterrorism, or (3) a chemical attack, and b. poses a high probability of any of the following harms: (1) a large number of deaths in the affected population, (2) a large number of serious or long-term disabilities in the affected population, or (3) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population;	63 Okl. Stat. Ann. § 6104
Oregon	Under Oregon law, the governor may declare a "state of impending public health crisis" when there is "a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action as authorized by ORS 433.441 to 433.452 to protect the public health. . . . A public health crisis can result from bioterrorism, chemical or radiological contamination, pandemic influenza or any other unusual or extraordinary incidence of a communicable or reportable disease."	O.R.S. § 433.441 (2004).
Pennsylvania	"Public health emergency" is not defined in Pennsylvania laws or administrative regulations.	
Rhode Island	"Public health emergency" is not defined in Rhode Island laws or administrative regulations.	
South Carolina	The occurrence or imminent risk of a qualifying health condition. "Qualifying health condition" is defined as an illness or health condition that may be caused by terrorism, epidemic or pandemic disease, or a novel infectious agent or biological or chemical agent and that poses a substantial risk of a significant number of human fatalities, widespread illness, or serious economic impact to the agricultural sector, including food supply.	S.C. Code Ann. § 44-1-130 (Law. Co-op. 2006)
South Dakota	An occurrence or imminent threat of an illness, health condition, or widespread exposure to an infectious or toxic agent that poses a significant risk of substantial harm to the affected population. This definition only applies to sections of the code pertaining to contagious disease control.	S.D. Codified Laws § 34-22-41 (Michie 2006)
Tennessee	"Public health emergency" is not defined in Tennessee laws or administrative regulations.	
Texas	"Public health disaster" means: (A) a declaration by the governor of a state of disaster; and (B) a determination by the commissioner that there exists an immediate threat from a communicable disease that: (i) poses a high risk of death or serious long-term disability to a large number of people; and (ii) creates a substantial risk of public exposure because of the disease's high level of contagion or the method by which the disease is transmitted.	Texas Health & Safety Code § 81.003 (Vernon's 2005)
Utah	An occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.	Utah Code Ann. § 26-23b-102 (2006)
Vermont	"Public health emergency" is not defined in Vermont laws or administrative regulations.	
Virginia	"Public health emergency" is not defined under Virginia law. However, Virginia does define "*Communicable disease of public health threat*" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual.	Va. Code Ann. § 44-146.16 (2005).

State	Definition of "Public Health Emergency"	Citation
Washington	"Public health emergency" is not defined in Washington laws or administrative regulations related to emergency management. In relation to the laws regulating public water systems, "public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.	West's RCWA 70.119A.020 (2002).
West Virginia	"Public health emergency" is not defined in West Virginia laws or administrative regulations.	
Wisconsin	Occurrence or imminent threat of an illness or health condition that meets all of the following criteria: (a) is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent; (b) poses a high probability of any of the following: (1) a large number of deaths or serious or long-term disabilities among humans; (2) a high probability of widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.	Wis. Stat. § 166.02 (2003)
Wyoming	An occurrence or imminent threat of an illness or health condition caused by an epidemic or pandemic disease, a novel and highly fatal infectious agent or a biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.	Wyo. Stat. Ann. § 35-4-115 (Michie 2006)

APPENDIX B

Definitions of Emergency or Disaster in ESAR-VHP Phase I-III States

State	Statutory Definitions of Emergency or Disaster
Alabama	"*Emergency*" means "disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural cause. **Ala.Code 1975 § 31-9-3 (2005)**
Alaska	"*Disaster*" means "the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from (A) an incident such as storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion, or riot; (B) the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage; (C) equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation; (D) enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the state that the adjutant general of the Department of Military and Veterans' Affairs or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must meet the standards of AS 26.20.040(c); in this subparagraph, "attack" has the meaning given under AS 26.20.200; or (E) an outbreak of disease or a credible threat of an imminent outbreak of disease that the commissioner of health and social services or a designee of the commissioner of health and social services certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the commissioner or the designee determines is reliable." **Alaska Stat. § 26.23.900 (Michie 2006)** "*Disaster Emergency*" means "the condition declared by proclamation of the governor or declared by the principal executive officer of a political subdivision to designate the imminence or occurrence of a disaster." **Alaska Stat. § 26.23.900 (Michie 2006)**
Arizona	"*State of emergency*" means "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision." **Ariz. Rev. Stat. § 26-301 (2006)**
Arkansas	"*Disaster*" means "any tornado, storm, flood, high water, earthquake, drought, fire, radiological incident, air or surface-borne toxic or other hazardous material contamination, or other catastrophe, whether caused by natural forces, enemy attack, or any other means which: (A) In the determination of the Governor or the Director of the Arkansas Department of Emergency Management or his or her designee is or threatens to be of sufficient severity and magnitude to warrant state action or to require assistance by the state to supplement the efforts and available resources of local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the chief executive of any political subdivision in which the disaster occurs or threatens to occur certifies the need for state assistance and gives assurance of the local government for alleviating the damage, loss, hardship, or suffering resulting from such disaster; or (B) (i) Results in an interruption in the delivery of utility services when emergency declarations are required and when delays in obtaining an emergency declaration from the Governor or the director or his or her designee would hamper and delay restoration of utility service; (ii) In those instances, the Governor or the director or his or her designee may make such emergency determination subsequent to the initiation of the restoration work. **Ark. Code Ann. § 12-75-103 (Michie 2006)**

State	Statutory Definitions of Emergency or Disaster
California	"*State of war emergency*" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent. "*State of emergency*" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, complications resulting from the Year 2000 Problem, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission. "*Local emergency*" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, complications resulting from the Year 2000 Problem, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission. **West's Ann. Cal. Gov. Code § 8558 (2005)**
Colorado	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the state or in any county, city, town, or district in the state. "*Emergency epidemic*" means cases of an illness or condition, communicable or noncommunicable, caused by bioterrorism, pandemic influenza, or novel and highly fatal infectious agents or biological toxins. **Colo. Rev. Stat. § 24-32-2103 (2006)**
Connecticut	"*Emergency*" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire explosion, or other catastrophe in any part of this state which requires federal emergency assistance to supplement state and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster. **Conn. Gen. Stat. § 28-1(c) (2003)** "*Civil preparedness emergency*" or "*disaster emergency*" mean an emergency declared by the Governor under the provisions of this chapter in the event of serious disaster or of enemy attack, sabotage or other hostile action within the state or a neighboring state, or in the event of the imminence thereof. **Conn. Gen. Stat. § 28-1(g) (2003)**

State	Statutory Definitions of Emergency or Disaster
Delaware	"*Disaster*" means "a catastrophic condition caused by a man-made event (including, but not limited to, industrial, nuclear or transportation accident, explosion, conflagration, power failure, act of domestic terrorism, natural resource shortage or other condition resulting from man-made causes, such as hazardous materials spills and other injurious environmental contamination), natural event (including, but not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mud slide, snowstorm, drought, fire or explosion) or war-caused event (following an attack upon the United States caused by use of bombs, missiles, shellfire or nuclear, radiological, chemical or biological means, or other weapons, or overt paramilitary actions, or other conditions such as sabotage) which results in substantial damage to property or the environment, and/or hardship, suffering, injury or possible loss of life." "*Emergency*" means "any situation which requires efforts and capabilities to save lives or to protect property, public health and safety, or to lessen or avert the threat of a disaster in Delaware." **Del. Code Ann. tit. 20, § 3102 (2006)**
District of Columbia	"*Public emergency*" means any disaster, catastrophe, or emergency situation where the health, safety, or welfare of persons in the District of Columbia is threatened by reason of the actual or imminent consequences within the District of Columbia of: (A) Enemy attack, sabotage or other hostile action; (B) Severe and unanticipated resource shortage; (C) Fire; (D) Flood, earthquake, or other serious act of nature; (E) Serious civil disorder; (F) Any serious industrial, nuclear, or transportation accident; (G) Explosion, conflagration, power failure; (H) Injurious environmental contamination which threatens or causes damage to life, health, or property; or (I) Outbreak of a communicable disease that threatens or causes damage to life, health, or property. **D.C. Code Ann.§ 7-2301(3) (2002)**
Florida	"*Emergency*" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. "*Disaster*" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows: (a) "*Catastrophic disaster*" means a disaster that will require massive state and federal assistance, including immediate military involvement. (b) "*Major disaster*" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. (c) "*Minor disaster*" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. **West's F.S.A. § 252.34 (2005)**
Georgia	"*Emergency management*" means the preparation for the carrying out of all emergency functions other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from emergencies, energy emergencies, disasters, or the imminent threat thereof, of manmade or natural origin caused by enemy attack, sabotage, acts of domestic or international terrorism, civil disturbance, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot or other hostile action, radiological action, or other causes. . . . "*State of emergency*" means the condition declared by the Governor when, in his judgment, the threat or actual occurrence of a disaster, emergency, or energy emergency in any part of the state is of sufficient severity and magnitude to warrant extraordinary assistance by the state to supplement the efforts and available resources of the several localities and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby. **Ga. Code Ann., § 38-3-3 (2005)**

State	Statutory Definitions of Emergency or Disaster
Hawaii	"*Disaster relief*" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes, or by enemy attack, sabotage, or other hostile action. **Haw. Rev. Stat. § 127-1 (2005)** "The term '*civil defense emergency period*' includes (1) a period of civil defense emergency proclaimed pursuant to the Federal Civil Defense Act of 1950, or (2) the period of the existence of a state of civil defense emergency in the State hereby authorized to be proclaimed by the governor if the governor finds that an attack upon the State has occurred or that there is danger or threat thereof, or that there has arisen any state of affairs or circumstances of such a grave nature as to affect the common defense or the readiness of the community to meet an attack, and which requires the invocation of provisions of this chapter that are effective only during a period of civil defense emergency." **Haw. Rev. Stat. § 128-7 (2005)**
Idaho	"*Disaster*" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, windstorm, wave action, volcanic activity, explosion, riot, or hostile military or paramilitary action and including acts of terrorism. "*Emergency*" means occurrence or imminent threat of a disaster or condition threatening life or property which requires state emergency assistance to supplement local efforts to save lives and protect property or to avert or lessen the threat of a disaster. **Idaho Code § 46-1002 (Michie 2006)**
Illinois	"*Disaster*" means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism. **20 ILCS 3305/4 (2003)**
Indiana	"*Disaster*" means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural phenomenon or human act. **Ind. Code Ann. § 10-14-3-1 (Michie 2006)** "*Emergency Management*" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. **Ind. Code Ann. § 10-14-3-2 (Michie 2006)**
Iowa	*"Disaster"* means man-made and natural occurrences, such as fire, flood, drought, earthquake, tornado, windstorm, hazardous substance or nuclear power plant accident or incident, which threaten the public peace, health, and safety of the people or which damage and destroy public or private property. The term includes attack, sabotage, or other hostile action from within or without the state. **Iowa Code § 29C.2 (2006)**
Kansas	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, contagious or infectious disease, air contamination, blight, drought, infestation, explosion, riot, terrorism or hostile military or paramilitary action. **Kan. Stat. Ann. § 48-904 (2006)**
Kentucky	"*Disaster*" means any incident or situation declared as such by executive order of the Governor, or the President of the United States, pursuant to federal law. "*Emergency*" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities. **Ky. Rev. Stat. Ann. § 39A.020 (Michie 2006)**

State	Statutory Definitions of Emergency or Disaster
Louisiana	"*Disaster*" means the result of a natural or man-made event which causes loss of life, injury, and property damage, including but not limited to natural disasters such as hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents, hazardous materials incidents, oil spills, explosion, civil disturbances, public calamity, acts of terrorism, hostile military action, and other events related thereto. "*Emergency*" means: (a) The actual or threatened condition which has been or may be created by a disaster; or (b) (i) Any natural or man-made event which results in an interruption in the delivery of utility services to any consumer of such services and which affects the safety, health, or welfare of a Louisiana resident; or (ii) Any instance in which a utility's property is damaged and such damage creates a dangerous condition to the public; or (iii) Any national or state emergency, including acts of terrorism or a congressional authorization or presidential declaration pursuant to the War Powers Resolution (50 U.S.C. 1541 et seq.). **La. Rev. Stat. Ann. § 29:723 (West 2006)**
Maine	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, extreme public health emergency pursuant to Title 22, section 802, subsection 2-A, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action. **Me. Rev. Stat. Ann. tit. 37-B, § 703 (West 2006)**
Maryland	"*Emergency*" means the threat or occurrence of: (1) a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, and any other disaster in any part of the State that requires State assistance to supplement local efforts in order to save lives and protect public health and safety; or (2) an enemy attack, act of terrorism, or public health catastrophe. **MD Code, Public Safety, § 14-101 (2005).** "*Public emergency*" means: (1) a situation in which three or more individuals are at the same time and in the same place engaged in tumultuous conduct that leads to the commission of unlawful acts that disturb the public peace or cause the unlawful destruction or damage of public or private property; (2) a crisis, disaster, riot, or catastrophe; or (3) an energy emergency. **MD Code, Public Safety, § 14-301 (2005).**
Massachu-setts	"*Emergency*" occurs if and when the congress of the United States shall declare war, or if and when the President of the United States shall by proclamation or otherwise inform the governor that the peace and security of the commonwealth are endangered by belligerent acts of any enemy of the United States or of the commonwealth or by the imminent threat thereof; or upon the occurrence of any disaster or catastrophe resulting from attack, sabotage or other hostile action; or from riot or other civil disturbance; or from fire, flood, earthquake or other natural causes; or whenever because of absence of rainfall or other cause a condition exists in all or any part of the commonwealth whereby it may reasonably be anticipated that the health, safety or property of the citizens thereof will be endangered because of fire or shortage of water or food; or whenever the accidental release of radiation from a nuclear power plant endangers the health, safety, or property of people of the commonwealth. **M.G.L. c. 33 App. § 13-5**
Michigan	"*Emergency*" means any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state. "*Disaster*" means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders. **Mich.C.L.A. 30.402 (2004)**
Minnesota	"*Emergency*" means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring. "*Disaster*" means a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss. **Minn. Stat. § 12.03 (2002)**

State	Statutory Definitions of Emergency or Disaster
Mississippi	"*Disaster*" means any natural, technological or civil emergency as defined in this section that causes damage of sufficient severity and magnitude to result in a declaration of an emergency by a county or municipality, the Governor or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows: (i) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement; (ii) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance; (iii) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. "*Emergency*" means any occurrence, or threat thereof, whether natural, technological, or man-made, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. **Miss. Code Ann. § 33-15-5 (2006)**
Missouri	"*Emergency*" means any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized. **Mo. Rev. Stat. § 44.010(6) (1998)** "*Disaster*" means disasters which may result from terrorism, including bioterrorism, or from fire, wind, flood, earthquake, or other natural or man-made causes. **Mo. Rev. Stat § 44.010(4) (1998)**
Montana	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation byproducts or other hazardous materials, bioterrorism, or incidents involving weapons of mass destruction. "*Emergency*" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize. **Mont. Code Ann. § 10-3-103 (2006)**
Nebraska	"*Civil defense emergency*" means an emergency declared by the President of the United States or Congress pursuant to applicable federal law finding that an attack upon the United States has occurred or is anticipated and that the national safety therefore requires the invocation of the emergency authority provided for by federal law. Civil defense emergency also means an enemy attack or other hostile action within the State of Nebraska or a determination by the President of the United States that any attack has been made upon or is anticipated within a designated geographic area which includes all or a part of the State of Nebraska. Any such emergency shall terminate in the manner provided by federal law or by proclamation of the Governor or resolution of the Legislature terminating such emergency; "*Disaster*" means any event or the imminent threat thereof causing widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause; "*Emergency*" means any event or the imminent threat thereof causing serious damage, injury, or loss of life or property resulting from any natural or manmade cause which, in the determination of the Governor or the principal executive officer of a local government, requires immediate action to accomplish the purposes of the Emergency Management Act and to effectively respond to the event or threat of the event. **Neb. Rev. Stat. § 81-829.39 (2004)**

State	Statutory Definitions of Emergency or Disaster
Nevada	"*Emergency*" means an occurrence or threatened occurrence for which, in the determination of the governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state. **Nev. Rev. Stat. 414.0345 (2005)** "*Disaster*" means an occurrence or threatened occurrence for which, in the determination of the governor, the assistance of the Federal Government is needed to supplement the efforts and capabilities of state agencies to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state. **Nev. Rev. Stat. 414.0335 (2005)**
New Hampshire	"*State of emergency*" means that condition, situation, or set of circumstances deemed to be so extremely hazardous or dangerous to life or property that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm. **N.H. Rev. Stat. § 21-P:35 (2005).**
New Jersey	"*Emergency*" means any flood, hurricane, storm, tornado, high water, wind-driven water, tidal wave, drought, fire, explosion, civil disorder or other catastrophe which is or threatens to be of sufficient severity and magnitude to substantially endanger the health, safety and property of the citizens of this State. **N.J. Stat. Ann. 52:14E-3 (2005) PENDING LEGISLATION**
New Mexico	"*Disaster*" means damage or injury, caused by enemy attack, to persons or property in this state of such magnitude that a state of martial law is declared in the state and a disaster emergency is declared by the chief executive officer of the United States and the chief executive officer of this state. **N.M. Stat. Ann. 1978, § 12-11-3 (2005).**
New York	"*Disaster*" means occurrence or imminent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, radiological accident, water contamination, bridge failure or bridge collapse. "*State disaster emergency*" means a period beginning with a declaration by the governor that a disaster exists and ending upon the termination thereof. **NY Stat. Ann. McKinney's Executive Law § 20(2) (2001)**
North Carolina	*"Disaster"* means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause. **N.C. Gen. Stat. Ann. § 166A-4 (2005)**
North Dakota	"*Disaster*" means the occurrence of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including fire, flood, earthquake, severe high and low temperatures, tornado storm, wave action, oil spill, or other water or air contamination, epidemic, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action, which is determined by the governor to require state or state and federal assistance or actions to supplement the recovery efforts of local governments in alleviating the damage, loss, hardship, or suffering caused thereby. "*Emergency*" means any situation that is determined by the governor to require state or state and federal response or mitigation actions to immediately supplement local governments to protect lives and property, to provide for public health and safety, or to avert or lessen the threat of a disaster. **N.D. Cent. Code § 37-17.1-04 (2006)**
Ohio	"*Disaster*" means any imminent threat or actual occurrence of widespread or severe damage to or loss of property, personal hardship or injury, or loss of life that results from any natural phenomenon or act of human. **Ohio Rev. Code Ann. §5502.21(E) (Anderson 1999)** "*Emergency*" means any period during which the Congress of the United States or a chief executive has declared or proclaimed that an emergency exists. **Ohio Rev. Code Ann. §5502.21(F) (Anderson 1999)**

State	Statutory Definitions of Emergency or Disaster
Oklahoma	"*Emergency*" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert threat of a catastrophe in any part of the state. "*Man-made disaster*" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortages that require assistance from outside the local political subdivision. "*Natural disaster*" means any natural catastrophe, including, but not limited to, a tornado, severe storm, high water, flood waters, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought which causes damage of sufficient severity and magnitude to warrant hazard mitigation or the use of resources of the federal government, or the state and political subdivisions thereof to alleviate the damage, loss, hardship or suffering caused thereby. **63 Okl.St.Ann. § 683.3 (2004)**
Oregon	"*Emergency*" includes any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war. **Or. Rev. Stat. § 401.025 (2003)**
Pennsylvania	"*Disaster*." A man-made disaster, natural disaster or war-caused disaster. "*Disaster emergency.*" Those conditions which may by investigation made, be found, actually or likely, to: (1) affect seriously the safety, health or welfare of a substantial number of citizens of this Commonwealth or preclude the operation or use of essential public facilities; (2) be of such magnitude or severity as to render essential State supplementation of county and local efforts or resources exerted or utilized in alleviating the danger, damage, suffering or hardship faced; and (3) have been caused by forces beyond the control of man, by reason of civil disorder, riot or disturbance, or by factors not foreseen and not known to exist when appropriation bills were enacted. "*Man-made disaster*." Any industrial, nuclear or transportation accident, explosion, conflagration, power failure, natural resource shortage or other condition, except enemy action, resulting from man-made causes, such as oil spills and other injurious environmental contamination, which threatens or causes substantial damage to property, human suffering, hardship or loss of life. "*Natural disaster*." Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion or other catastrophe which results in substantial damage to property, hardship, suffering or possible loss of life. **35 Pa.C.S.A. § 7102 (2004)**
Rhode Island	"*Disaster*" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man made cause, including but not limited to: (i) Fire; (ii) Flood; (iii) Earthquake; (iv) Wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage; (v) Volcanic activity; (vi) Epidemic; (vii) Air contamination; (viii) Blight; (ix) Drought; (x) Infestation; (xi) Explosion; (xii) Riots; (xiii) Hostile military or paramilitary action; (xiv) Endangerment of the health, safety, or resources of the people of the state; (xv) Acts of bioterrorism. **R.I. Gen Laws § 30-15-3 (2006)**
South Carolina	"*Emergency*" shall mean actual or threatened enemy attack, sabotage, conflagration, flood, storm, epidemic, earthquake, riot or other public calamity. **S.C. Code Ann. § 25-1-430 (2006)**

State	Statutory Definitions of Emergency or Disaster
South Dakota	"*Disaster*" means any natural, nuclear, man-made, war-related, or other catastrophe producing phenomena in any part of the state which, in the determination of the Governor, causes damage of sufficient severity and magnitude to warrant all state assistance that is reasonably available, above and beyond emergency resource commitments. "*Emergency*" means any natural, nuclear, man-made, war-related, or other catastrophe producing phenomena in any part of the state which in the determination of the Governor requires the commitment of less than all available state resources to supplement local efforts of political subdivisions of the state to save lives and to protect property, public health, and safety or to avert or lessen the threat of a disaster. **S.D. Codified Laws § 33-15-1 (Michie 2006)**
Tennessee	"Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state emergency by a county, the governor, or the president of the United States. "Disaster" is identifiable by the severity of resulting damage, as follows: (A) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement; (B) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance; and (C) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. "Emergency" means an occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. **Tenn. Code Ann. § 58-2-101 (2006)**
Texas	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency. **Tex. Gov't Code Ann. § 418.004(1) (Vernon 2003)**
Utah	"*Disaster*" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena, or technological hazard. "*State of emergency*" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster. **Utah Code Ann. § 53-2-102 (2006)**
Vermont	"*Disaster or emergency*" means any occurrence that threatens the health, safety and well-being of the people of any state or region, whether due to natural or man-made disaster, technological hazard, effects of resource shortage, civil disorder, insurgency, or enemy attack. **Vt. Stat. Ann. tit. 20, § 102 (2006)**

State	Statutory Definitions of Emergency or Disaster
Virginia	"*Emergency*" means any occurrence, or threat thereof, whether natural or man-made, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or natural resources and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof. "*State of emergency*" means the condition declared by the Governor when in his judgment, the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several localities, and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him. "*Major disaster*" means any natural catastrophe, including any: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States is, or thereafter determined to be, of sufficient severity and magnitude to warrant major disaster assistance under the Strafford Act (P.L. 43-288 as amended) to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him. "*Man-made disaster*" means any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States and may be by use of bombs, missiles, shell fire, nuclear, radiological, chemical or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; also any industrial, nuclear or transportation accident, explosion, conflagration, power failure, resources shortage or other condition such as sabotage, oil spills and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship or loss of life. "*Natural disaster*" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life. **Va. Code Ann. § 44-146.16 (2005).**
Washington	"*Emergency or disaster*" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (I) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010. "*Emergency*" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430. **West's RCWA 38.52.010 (2003)**
West Virginia	"*Disaster*" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action. **W. Va. Code § 15-5-2(h) (1990)**
Wisconsin	"*Emergency*" is an emergency resulting from enemy action or natural or man-made disaster. **Wis. Stat. §166.03 (1)(b)(1) (2003)**

State	Statutory Definitions of Emergency or Disaster
Wyoming	Wyoming code does not contain a specific or separate definition for “emergency” or “disaster” but the term “disaster” is defined and described within the definition of “homeland security” below. "*Homeland security*" means the preparation for and the carrying out of all emergency functions essential to the recovery and restoration of the economy by supply and resupply of resources to meet urgent survival and military needs, other than functions for which military forces are primarily responsible, necessary to deal with disasters caused by enemy attack, sabotage, terrorism, civil disorder or other hostile action, or by fire, flood, earthquake, other natural causes and other technological, industrial, civil and political events. These functions include without limitation the coordination of fire-fighting services, police services, medical and health services, rescue, engineering, attack warning services, communications, radiological events, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, mitigation activities in areas threatened by natural or technological hazards, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for any carrying out of the foregoing functions. **Wyo. Stat. Ann. § 19-13-102 (Michie 2006)**

APPENDIX C

Definitions of Volunteer in ESAR-VHP Phase I-III States

State	Legislative Definition of Volunteer	Citation
Alabama	"Volunteer" is not defined in Alabama laws or administrative regulations related to emergency management. Volunteer is defined in the Volunteer Services Act as "[a] person performing services for a nonprofit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee, or direct service volunteer."	Ala. Code 1975 § 6-5-336 (2005)
Alaska	"Volunteer" means a person who is paid not more than $10 a day and a total of not more than $500 a year, not including ski lift tickets and reimbursement for expenses actually incurred, for providing emergency services.	Alaska Stat. § 09.65.090 (2005)
Arizona	For the purposes of civil liability for emergency aid "volunteer" means a person who performs services for a nonprofit corporation or nonprofit organization, hospital or governmental entity without compensation other than reimbursement of actual expenses incurred. The term includes a volunteer who serves as a director, officer, trustee or direct service volunteer.	Ariz. Rev. Stat. § 12-981 (2005)
Arkansas	"Certified disaster service volunteer" means a person who has completed the necessary training for being and has been certified as a disaster service technician, specialist, coordinator, or officer by the American Red Cross. "Emergency Volunteer Reserve Cadre" means persons recruited as volunteers to serve in time of emergency and to supplement the regular employees of the Arkansas Department of Emergency Management in disaster response and recovery operations. "Volunteer" means any person who, of his or her own free will, provides goods or services without any financial gain to any agency, instrumentality, political subdivision, or school district of the State of Arkansas.	Ark. Code Ann. § 12-85-101 (2005) Ark. Code. Ann. § 12-83-103 (2005) Ark. Code Ann. § 21-13-103 (2005)
California	"Convergent volunteers" are individuals that come forward to offer disaster response and recovery volunteer services, during a disaster event. Convergent volunteers are not persons impressed into service at the scene of an incident.	19 CA ADC § 2570.2 (2005)
Colorado	"Volunteer" means a person performing services for a nonprofit organization, a nonprofit corporation, or a hospital without compensation, other than reimbursement for actual expenses incurred.	Colo. Rev. Stat. § 13-21-115.5(2005)
Connecticut	"Volunteer" is not defined in Connecticut laws or administrative regulations related to emergency management.	
Delaware	"Volunteer" is not defined in Delaware laws or administrative regulations related to emergency management. Out-of-state emergency health care workers are considered employees of the state pursuant to the statute on public health emergencies.	Del. Code. Ann. tit. 20, § 3140 (2005)
District of Columbia	"Volunteer" is not defined in District of Columbia laws or administrative regulations related to emergency management.	
Florida	"Volunteer" is not defined in Florida laws or administrative regulations related to emergency management.	
Georgia	"Volunteer" is not defined in Georgia laws or administrative regulations related to emergency management.	
Hawaii	"Volunteers" are individuals performing civil defense emergency services for the relevant political subdivision without compensation. Volunteers are considered employees of the state or political subdivision and have the powers, duties, rights, and privileges of such in the performance of their duties.	HI ST § 128-16 (2004)

State	Legislative Definition of Volunteer	Citation
Idaho	"Volunteer" means any person who contributes his services in a program or service conducted or sponsored by any agency, department or unit of state government for which he receives no financial remuneration, except for reasonable and necessary expenses actually incurred in the course of his participation in the program.	Idaho Code § 67-2334 (2005)
Illinois	An individual who is a duly qualified and enrolled (sworn in) as a volunteer of the Illinois Emergency Management Agency or an emergency services and disaster agency accredited by the Illinois Emergency Management Agency.	20 ILCS 3305/10 (2001)
Indiana	"Certified disaster service volunteer" means an individual who has: (1) Completed the necessary training for being; and (2) Been certified as; a disaster service specialist by the Red Cross. "Rostered Volunteer" means a volunteer: (1) Whose name has been entered on a roster of volunteers for a volunteer program operated by a local unit; and (2) Who has been approved by the proper authorities of the local unit. "Volunteer worker" means a person who (1) performs services for a state institution and for which the person does not receive compensation of any nature; and (2) has been approved and accepted as a volunteer director of the division of disability, aging, and rehabilitative services or the division of mental health and addiction.	Ind. Code Ann. § 4-15-14-1 (2005) Ind. Code Ann. § 5-10-8-2.7 (2005) Ind. Code Ann. § 22-3-2-2.3 (2005)
Iowa	Under the Department of Public Health's Volunteer Health Care Provider Program a health care provider providing free care shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under 669.21, provided that the health care provider has done all of the following: (a) Registered with the department pursuant to subsection 1. (b) Provided medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services through a hospital, clinic, free clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.	Iowa Code § 135.24 (2005)
Kansas	"Volunteer workers" means those natural persons who volunteer their services for the purpose of engaging in emergency management activities under a disaster agency established and maintained under K.S.A. 48-929 or 48-930, and amendments thereto. "Volunteer" means an officer, director, trustee or other person who performs services for a nonprofit organization but doe not receive compensation, either directly or indirectly, for those services. Volunteer does not include a person who delivers health care services to patients in a medical care facility as defined in K.S.A. 65-425 and amendments thereto.	Kan. Stat. Ann. § 48-922 (2005) Kan. Stat. Ann. § 60-3601 (2005)
Kentucky	"Volunteer" is not defined in Kentucky laws or administrative regulations related to emergency management. Emergency response workers includes volunteers.	Ky. Rev. Stat. Ann. § 39A.280 (2005)
Louisiana	"First responder" means a volunteer engaged in activities involving the office of homeland security and emergency preparedness. "Disaster service volunteer" means a public employee who has received certification from the American Red Cross as a Trained Disaster Volunteer. "Volunteer" means a person who has successfully completed the first aid training by the American Red Cross or other recognized emergency medical training program whose certification is current.	La. Rev. Stat. Ann. § 23: 1017.1 (2005) La. Rev. Stat. Ann. § 42: 450.1 (2005) La. Rev. Stat. Ann. § 9: 2793.2 (2005)
Maine	"Volunteer" means a person who provides services without compensation, except that the person may be paid for expenses, to a charitable organization.	Me. Rev. Stat. Ann. tit. 14, § 158-A (2005)
Maryland	"Volunteer" is not defined in Massachusetts laws or administrative regulations related to emergency management.	

State	Legislative Definition of Volunteer	Citation
Massachusetts	"Volunteer" is not defined in Massachusetts laws or administrative regulations related to emergency management.	
Michigan	"Volunteer" is not defined in Michigan laws or administrative regulations related to emergency management. However, disaster relief forces may include volunteer members. Volunteers, who are not employees of the state or a political subdivision of the state, are entitled to the same rights and immunities as provided by law for the employees of the state. All personnel of disaster relief forces are, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses. Volunteers, including VHPs, also enjoy immunity from tort liability for injuries sustained by individuals resulting from the provision of volunteer disaster relief services.	Mich.C.L.A. 30.402(f) (2004). Mich.C.L.A. 30.411 (4) (2004).
Minnesota	"Volunteer" is not defined in Minnesota laws or administrative regulations related to emergency management. However, volunteers are entitled to workers' compensation coverage from the political subdivision for whom they are providing emergency or disaster assistance.	Minn. Stat. 12.22, Subd. 2a (2005).
Mississippi	"Qualified volunteer" means any person who freely provides services, goods or the use of real or personal property or equipment, without any compensation or charge to any volunteer agency in connection with a volunteer activity. For purposes of this chapter, reimbursement of actual expenses, including travel expenses, necessarily incurred in the discharge of a member's duties, insurance coverage and workers' compensation coverage of volunteers, shall not be considered monetary compensation.	Miss. Code Ann. § 95-91-1 (2005)
Missouri	Any person who, of his or her own free will, performs any assigned duties for the Emergency Management agency with no monetary or material compensation.	Mo. Rev. Stat. § 44.125 (1998)
Montana	"Volunteer" is not defined in Montana laws or administrative regulations related to emergency management. For the purposes of workers' compensation "volunteer" means a person who performs services on behalf of an employer, but does not receive wages.	Mont. Code Ann. § 39-71-118 (2005)
Nebraska	"Volunteer" is not defined in Nebraska laws or administrative regulations related to emergency management. Emergency management workers may include volunteers.	Neb. Rev. Stat. § 81-829.39(5) (2004).
Nevada	"Volunteer" is not defined in Nevada laws or administrative regulations related to emergency management. Emergency management workers entitled to workers' compensation and civil liability protections may include volunteers.	Nev. Rev. Stat. 41.4.110 (2005).
New Hampshire	"Volunteer" is not defined in New Hampshire laws or administrative regulations related to emergency management. Emergency management workers may include volunteers, entitling them to a waiver of licensure requirements, immunity from civil liability and workers compensation protection.	N.H. Rev. Stat. § 21-P:41 (2002).
New Jersey	"Civil defense volunteer" means any natural person who is registered with a local defense council or with a district or regional office of the Director of Civil Defense and holds an identification card issued by the local chairman or State director for the purpose of engaging in authorized civil defense service without pay or other consideration.	N.J. Stat. Ann. App. A:9-57.1 (2005).
New Mexico	"Volunteer" is not defined in New Mexico laws or administrative regulations related to emergency management.	
New York	"Civil defense volunteers" shall include those members of the civil defense forces under the provisions of the state defense emergency act who are volunteer persons serving without compensation in the personnel of volunteer agencies.	McKinney's Workers' Compensation Law § 302 (2005).
North Carolina	"Certified disaster service volunteer" means a person who has completed the necessary training for and been certified as a disaster service specialist by the American National Red Cross.	N.C. Gen. Stat. Ann. § 166A-31

State	Legislative Definition of Volunteer	Citation
North Dakota	"Emergency or disaster volunteer" means any individual serving without remuneration who is actively engaged in training to quality as a disaster emergency worker or is responding to a hazard, emergency disaster, or enemy attack on this country, and who is registered with the disaster emergency organization of a municipality, which has been officially recognized by the director of the state division of homeland security. "Volunteer" means an individual who receives no compensation or who is paid expenses, reasonable benefits, nominal fees, or a combination of expenses, reasonable benefits, and nominal fees to perform the services for which the individual volunteered, provided that the fees do not exceed twenty-four hundred dollars in any calendar year.	N.D. Cent. Code § 65-06-01 (2005) N.D. Cent. Code § 23-27-04.1 (2005)
Ohio	"Volunteer " means an individual who is authorized to assist any agency performing emergency management during a hazard.	Ohio Rev. Code Ann. 5502.30 (Anderson 1995)
Oklahoma	"Volunteer" is not defined in Oklahoma laws or administrative regulations related to emergency management. Volunteer medical professional is defined in the Volunteer Medical Professional Immunity Act, which provides qualifying volunteer medical professionals with immunity from liability. The Oklahoma Office of Volunteerism operates within the Oklahoma Department of Emergency Management. It functions for the purpose of developing, promoting and supporting emergency management volunteerism in the State of Oklahoma. The Oklahoma Office of Volunteerism supports voluntary involvement in public and private emergency management programs to meet the needs of the citizens of the State of Oklahoma, stimulates new voluntary emergency management initiatives and partnerships, and serves as a resource and advocate within the State of Oklahoma for volunteer agencies, volunteers and programs which utilize volunteers to support emergency response and disaster recovery operations.	Okla. Stat. Ann. tit. 76, § 32 (2004). Okla. Stat. Ann. tit. 63, § 683.26 (2004).
Oregon	"Volunteer" means a health care provider who is not a registrant who provides emergency health care services at an emergency health care center. "Emergency health care provider" means a health care provider who is a registrant or volunteer providing health care services under ORS 401.651 to 401.670. "Emergency service workers" include individuals who, under the direction of an emergency service agency or emergency management agency, perform emergency services and are registered volunteers or independently volunteers to serve without compensation and is accepted by the office or the emergency management agency of a county or city; and members of the Oregon State Defense Force acting in support of the emergency services system.	OR ADC 333-003-0105(17) (2005) OR ADC 333-003-0105(7) (2005) O.R.S. § 401.025(9) (2003).
Pennsylvania	"Volunteer" is not defined in Pennsylvania laws or administrative regulations related to emergency management.	
Rhode Island	"Volunteer" means an individual performing services for a nonprofit corporation without compensation.	R.I. Gen. Laws § 28-31-12 (2005)
South Carolina	"Volunteer" means any person who, of his own free will, provides goods or services, without any financial gain, to any agency, instrumentality or political subdivision of the state. "Regular service volunteer" means any person engaged in specific voluntary service activities on an ongoing continuous basis. "Occasional service volunteer" means any person who provides a one-time or occasional voluntary service.	S.C. Code Ann. § 8-25-10 (a-c) (2005)
South Dakota	"Volunteer" is not defined in South Dakota laws or administrative regulations related to emergency management. Emergency management workers include volunteers.	S.D. Codified Laws § 33-15-1 (2005)

State	Legislative Definition of Volunteer	Citation
Tennessee	For the purpose of tort liability "volunteer" means a person who donates or volunteers that person's time or services to a local governmental entity and under the direction of a local governmental employee.	Tenn. Code Ann. § 29-20-310 (2005)
Texas	"Volunteer" is not defined in Texas laws or administrative regulations related to emergency management.	
Utah	"Certified disaster service volunteer" means any person who has completed the necessary training for and has been certified as a disaster service specialist by the American Red Cross. Pursuant to the Volunteer Government Workers Act "volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency. For the purpose of liability protection for volunteers "volunteer" means an individual performing services for a nonprofit organization who does not receive anything of value from that nonprofit organization for those services except reimbursements.	Utah Code Ann. § 34-43-102 (2005) Utah Code Ann. § 67-20-2 (2005) Utah Code Ann. § 78-19-1 (2005)
Vermont	"Volunteer" is not defined in Vermont laws or administrative regulations related to emergency management.	
Virginia	"Occasional-service volunteer" means any person who provides a one-time or occasional voluntary service; "Regular-service volunteer" means any person engaged in specific voluntary service activities on an ongoing or continuous basis; "Volunteer" means any person who, of his own free will, provides goods or services, without any financial gain, to any agency, instrumentality or political subdivision of the Commonwealth; "Volunteer in state and local services" shall include, but shall not be limited to, any person who serves in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT) while engaged in emergency services and preparedness activities as defined in § 44-146.16.	Va. Code Ann. § 2.2-3601 (2005).
Washington	"Volunteer" is not defined in Washington laws or administrative regulations related to emergency management. Emergency workers include registered volunteer medical professionals.	Wash. Admin. Code 118-04-080, Wash. Admin. Code 118-04-100 (2005).
West Virginia	"Volunteer" is not defined in West Virginia laws or administrative regulations related to emergency management.	
Wisconsin	Volunteer emergency management workers are employees of the emergency management unit with whom duly registered in writing for purposes of workers compensation benefits.	Wis. Stat. § 166.03 (2003)
Wyoming	"Volunteer" means an individual who provides any medical, dental or other health care related diagnosis, care or treatment without the expectation of receiving, and without receipt of, any compensation or other form of remuneration from a low income uninsured person, another person on behalf of a low income uninsured person, any health care facility or any other person or government entity.	Wyo. Stat. Ann. § 1-1-129 (2005)

APPENDIX D.

Good Samaritan Statutes in ESAR-VHP Phase I-III States

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
Alabama	Physicians, dentists, nurses, member of an organized rescue squad, member of a police or fire department, member of an organized volunteer fire department, licensed emergency medical technician, intern or resident practicing in an Alabama hospital with training programs approved by the American Medical Association, Alabama state troopers, medical aidman functioning as a part of the military assistance to safety and traffic program, chiropractors, and public education employees. **Ala.Code 1975 § 6-5-332(a)**	First aid or emergency care at the scene of an accident, casualty, or disaster rendered gratuitously.	In good faith.
	Physician. **Ala.Code 1975 § 6-5-332(c)**	Gratuitous advice to medical personnel at the scene of an emergency episode by direct voice contact, to render medical assistance based upon information received by voice or biotelemetry equipment and the actions ordered taken by the physician to sustain life or reduce disability are within the established medical procedures.	
	Any person. **Ala.Code 1975 § 6-5-332(e)**	Emergency care or treatment to a person suffering or appearing to suffer from cardiac arrest, without compensation.	In good faith, gross negligence.
Alaska	Any person. **Alaska Stat. § 09.65.090 (a) (2005)**	Who provides emergency care or emergency counseling to an inured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death.	Gross negligence or reckless or intentional misconduct.
	A member of an organization that exists for the purpose of providing emergency services. **Alaska Stat. § 09.65.090 (b) (2005)**	Providing first aid, search, rescue, or other emergency services to the person, regardless of whether the member is under a preexisting duty to render assistance, if the member provided the service while acting as a volunteer member of the organization. Immunity excludes certain advance life support techniques unless the person was authorized by law to provide them.	
	Any person. **Alaska Stat. § 09.65.091 (2006)**	Who provides equipment or services on the request of a police agency, fire department, rescue or emergency squad, or other governmental agency during a state of emergency declared by an authorized representative of the state or local government is not liable for the death of or injury to any person or damage to any property caused by that person's actions.	Intentionally, recklessly, or with gross negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Persons certified under the emergency medical services section. **Alaska Stat. § 18.08.086 (2006)**	Who administers emergency medical services to an injured or sick person, a person or public agency that employs, sponsors, directs, or controls the activities of persons certified under AS 18.08.082 who administer emergency medical services to an injured or sick person, or a health care professional or emergency medical dispatcher acting within the scope of the person's certification who directs or advises a person to administer emergency medical services to an injured or sick person is not liable for civil damages as a result of an act or omission in administering those services or giving that advice or those directions if the administering, advising, and directing are done in good faith and the injured or sick person reasonably seems to be in immediate danger of serious harm or death. This subsection does not imposition of liability on a person or public agency that employs, sponsors, directs, or controls the activities of persons certified under AS 18.08.082 if the act or omission is a proximate result of a breach of duty to act created under this chapter.	In good faith. Gross negligence (reckless, willful, or wanton misconduct) or intentional misconduct.
	Physicians. **Alaska Stat. § 18.08.086 (2006)**	Who arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to another hospital is not liable for civil damages as a result of arranging, requesting, recommending, or initiating the transfer if (1) in the exercise of that degree of knowledge or skill possessed, or that degree of care ordinarily exercised by physicians practicing the same specialty in the same or similar communities to that in which the physician is practicing, the physician determines that treatment of the patient's medical condition is beyond the capability of the transferring hospital or the medical community in which the hospital is located; (2) the physician has confirmed that the receiving facility is more capable of treating the patient; and (3) the physician has secured a prior agreement from the receiving facility to accept and render the necessary treatment to the patient.	In good faith.
	Registered nurses or licensed practical nurses. **Alaska Stat. § 18.08.086 (2006)**	Who escort a patient in a means of conveyance not equipped as an ambulance is not liable for civil damages as a result of an act or omission in administering patient care services, if done in good faith and if the life of the injured or sick person is in danger.	In good faith. Gross negligence or intentional misconduct.
Arizona	Physicians. **Ariz. Rev. Stat. § 36-2263 (1) (2006)**	Are not subject to civil liability for any personal injury that results from any act or omission when they provide supervisory services pursuant to the section on automated external defibrillators.	Willful misconduct or gross negligence
	Persons or entities. **Ariz. Rev. Stat. § 36-2263 (2-3) (2006)**	That provide training in CPR and use of automated external defibrillators or that acquire automated external defibrillator pursuant to this article are not subject to civil liability for any personal injury that results from any act or omission.	

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Property owners and facilities. **Ariz. Rev. Stat. § 36-2263 (4) (2006)**	Where the automated external defibrillator is located are not subject to civil liability for any personal injury that results from any act or omission.	
	Trained Responders. **Ariz. Rev. Stat. § 36-2263 (5) (2006)**	Are not subject to civil liability for any personal injury that results from any act or omission in the use of automated external defibrillators.	
	A volunteer. **Ariz. Rev. Stat. § 12-982 (2006)**	A volunteer is immune from civil liability in any action based on an act or omission of a volunteer resulting in damage or injury. The acts must be within the scope of the volunteer's official functions and duties for a nonprofit corporation or nonprofit organization, hospital or governmental entity.	In good faith, not willful, wanton or grossly negligent misconduct.
	Any health care provider or any other person. **Ariz. Rev. Stat. § 32-1471 (2006)**	Health care providers licensed or certified to practice as such in this state or elsewhere, or a licensed ambulance attendant, driver or pilot, or any other person who renders emergency care at a public gathering or at the scene of an emergency occurrence gratuitously and in good faith shall not be liable for any civil or other damages as the result of any act or omission by such person rendering the emergency care, or as the result of any act or failure to act to provide or arrange for further medical treatment or care for the injured persons.	In good faith, gross negligence.
Arkansas	Licensed physicians or surgeons or any person. **Ark. Code Ann. § 17-95-101(a) (2006)**	Who, in good faith, lends emergency care or assistance without compensation at the place of an emergency or accident, and who was acting as a reasonable and prudent person would have acted under the circumstances present at the scene at the time the services were rendered, shall not be liable for any civil damages for acts or omissions.	In good faith.
	Any person who is not a physician, surgeon, nurse, or other person trained or skilled in the treatment of medical emergencies. **Ark. Code Ann. § 17-95-101(b) (2006)**	Who is present at an emergency or accident scene, and who: (1) Believes that the life, health, and safety of an injured person or a person who is under imminent threat of danger could be aided by reasonable and accessible emergency procedures under the circumstances existing at the scene thereof; (2) Proceeds to lend emergency assistance or service in a manner reasonably calculated to lessen or remove the immediate threat to the life, health, or safety of such a person; (3) Lends only such emergency care or assistance as a reasonable and prudent person concerned for the immediate protection of the life, health, and safety of the person for whom the services were rendered would lend under the circumstances, shall not be held liable in civil damages in any action in this state for any harm, injury, or death of any such person so long as the person rendering such services acted in good faith and was acting as a reasonable and prudent person would have acted under the circumstances present at the scene at the time the services were rendered.	In good faith, reasonably prudent person.
California	Dentists. **Bus. & Prof.Code § 1627.5**	Emergency care at the scene of an emergency occurring outside the place of that person's practice, or emergency care to a person for a complication arising from prior care of another Dentist, at the request of another dentist.	In good faith.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Physician. **Bus. & Prof.Code § 2395**	Emergency care at the scene of an emergency, including those acts or omissions which occur after the declaration of a medical disaster and those which occurred prior to such declaration but after the commencement of such medical disaster.	In good faith, willful acts.
	Physician serving on an on-call basis to a hospital emergency room. **Bus. & Prof.Code § 2395.5**	Emergency obstetrical care while serving on-call.	In good faith, gross negligence, recklessness, or willful misconduct. In good faith.
	Physician. **Bus. & Prof.Code § 2396**	Emergency medical care to a person for medical complications arising from prior care by another physician, at the request of another physician.	In good faith, gross negligence.
	Physician. **Bus. & Prof.Code § 2398**	Voluntary emergency medical assistance to a participant in a community college or high school athletic event or contest, at the site of the event or contest, or during transportation to a health care facility, for an injury suffered in the course of such event or contest, without compensation.	In good faith, gross negligence.
	Nurses, vocational nurses, physicians assistants. **Bus. & Prof.Code §§ 2727.5, 2861.5, 3503.5.**	Emergency care at the scene of an emergency which occurs outside both the place and the course of that person's employment.	In good faith, gross negligence.
	People trained in CPR. **Civ.Code § 1714.2**	Emergency cardiopulmonary resuscitation at the scene of an emergency without compensation.	
Colorado	Any volunteer. **Colo. Rev. Stat. § 13-21-115.5 (4(a)) (2005)**	In any action on the basis of any act or omission of a volunteer resulting in damage or injury if the act was within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, or a hospital.	In good faith, willful, wanton misconduct.
	Physicians. **Colo. Rev. Stat. § 13-21-115.5 (4(a)) (2005)**	The physician's volunteer status was declared before the medical procedure occurred and the patient receiving the volunteered medical care, or the patient's representative, agreed in writing beforehand to accept such volunteered care after disclosure that the patient's right to sue the volunteer physician will be subject to the limitations of this section.	Gross negligence, willful, wanton misconduct.
	Licensed physicians and surgeons or any other person. **Colo. Rev. Stat. § 13-21-108 (2005)**	Who renders emergency care or emergency assistance to a person not presently his patient without compensation at the place of an emergency or accident, including a health care institution shall not be liable for any civil damages for acts or omissions as a result of the rendering of such emergency care or emergency assistance during the emergency. This section shall not apply to any person who renders such emergency care or emergency assistance to a patient he	In good faith. Grossly negligent or willful and wanton.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		is otherwise obligated to cover.	
	Any person while acting as a volunteer member of a rescue unit. **Colo. Rev. Stat. § 13-21-108 (2005)**	Who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions.	In good faith.
	Any person, including a licensed physician, surgeon, or other medical personnel. **Colo. Rev. Stat. § 13-21-108 (2005)**	While acting as a volunteer member of a ski patrol or ski area rescue unit, notwithstanding the fact that such person may receive free skiing privileges or other benefits as a result of his volunteer status, who in good faith renders emergency care or assistance without other compensation at the place of an emergency or accident shall not be liable for any civil damages for acts or omissions.	In good faith.
	An employer. **Colo. Rev. Stat. § 13-21-108 (2005)**	Shall not be liable for any civil damages for acts or omissions made by an employee while rendering emergency care or emergency assistance if the employee: (a) Renders the emergency care or emergency assistance in the course of his or her employment for the employer; and (b) Is personally exempt from liability for civil damages for the acts or omissions.	
Connecticut	Licensed healthcare professionals plus several other specific professions. **§ 52-557b**	Emergency medical assistance, first aid.	Other than ordinary negligence
Delaware	Volunteers of certain nonprofit organizations. **Del. Code Ann. tit. 10, § 8133 (2005)**	Shall not be subject to suit directly, derivately or by way of contribution for any civil damages under the laws of Delaware resulting from any negligent act or omission performed during or in connection with an activity of a not-for-profit organization.	Willful and wanton or grossly negligent conduct
	Volunteer licensed physicians or nurses or licensed dentists or dental hygienists. **Del. Code Ann. tit. 10, § 8135 (2005)**	No volunteer or the medical or dental clinic with which the volunteer is affiliated shall be subject to suit directly, derivatively or by way of contribution or indemnification for any civil damages under the laws of Delaware resulting from any negligent act or omission performed during or in connection with an activity of the volunteer while serving the medical or dental clinic, unless said volunteer has insurance coverage for such acts or omissions in which case the amount recovered shall not exceed the limits of such applicable insurance coverage.	Willful and wanton or grossly negligent conduct
	Any person. **Del. Code Ann. tit. 16, § 6801 (2005)**	Who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, or any person in obvious physical distress or discomfort shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance. This section shall apply to members or employees of nonprofit	Willfully, wantonly or recklessly or by gross negligence

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		volunteer or governmental ambulance, rescue or emergency units, whether or not a user or service fee may be charged by the nonprofit unit or the governmental entity and whether or not the members or employees receive salaries or other compensation from the nonprofit unit or the governmental entity. This section shall not be construed to require a person who is ill or injured to be administered first aid or emergency treatment if such person objects thereto on religious grounds. This section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic.	
	Persons certified to practice medicine. **Del. Code Ann. tit. 24, § 7-401 (2005)**	Renders emergency care at the scene of an emergency is not liable for civil damages as a result of any acts or omissions in rendering the emergency care.	In good faith, without gross or wanton negligence.
District of Columbia	Any person. **7-401**	Scene of accident or other emergency outside a hospital. No protection if compensation for services.	Gross negligence
Florida	Any person. **F.S.A. § 768.13**	Gratuitously rendered emergency care or treatment either in direct response to emergency situations related to and arising out of a declared public health emergency or state of emergency, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof. Emergency medical care, obstetrical care, trauma care, or pre-hospital medical direction.	In good faith, other than ordinary negligence.
	Any health care provider, including hospitals.	Voluntarily care or treatment of a patient with whom at that time the practitioner does not have a then-existing health care patient-practitioner relationship, and when such care or treatment is necessitated by a sudden or unexpected situation	Reckless disregard.
	Any licensed health care practitioner.	or by an occurrence that demands immediate medical attention, when in a hospital attending to a patient of his or her practice or for business or personal reasons unrelated to direct patient care.	Willful and wanton conduct.
Georgia	Any person. **Ga. Code Ann., § 51-1-29 (2005)**	Scene of an accident or emergency without making any charge therefore.	In good faith
Hawaii	Any person. **HRS § 663-1.5**	Emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency.	In good faith, gross negligence, wanton acts.
	Physician.	Emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration.	In good faith, other than ordinary negligence.
	Any person who successfully completes	Attempting, without remuneration or expectation of remuneration, to resuscitate	In good faith, gross

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	training under any automatic external defibrillator program administered by a physician.	a person in immediate danger of loss of life when administering any automatic external defibrillator, regardless of where the automatic external defibrillator that is used is located.	negligence, wanton acts/omissions.
Idaho	Any person. **Idaho Code § 5-330 (2006)**	Being at, or stopping at the scene of an accident, offers and administers first aid or medical attention to any person or persons injured in such accident The immunity described herein shall cease upon delivery of the injured person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said injured person or persons, or upon delivery of said injured person or persons into custody of an ambulance attendant.	In good faith, gross negligence.
	Any health care provider. **Idaho Code § 39-7703 (2006)**	Who voluntarily provides needed medical or health care services to any person at a free medical clinic without compensation or the expectation of compensation due to the inability of such person to pay for the services shall be immune from liability for any civil action arising out of the provision of such medical or health services. This section shall not extend immunity to the health care provider for any acts constituting intentional, willful or grossly negligent conduct or to acts by a health care provider which are outside the scope of practice authorized by the provider's licensure, certification or registration.	Willful or grossly negligent.
Illinois	Specific professions (physicians, nurses, dentists, optometrists, veterinarians), as long as licensed in a state. **745 Il. Comp. Stat. 49/1, *et. seq.***	Emergency care at the scene of the accident.	Willful/wanton
Indiana	Any person. **Ind. Code Ann. § 34-30-12-1 (2005)**	Who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from: (1) any act or omission by the person in rendering the emergency care; or (2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person.	In good faith, gross negligence or willful or wanton misconduct
	A person. **Ind. Code Ann. § 34-30-12-1 (2005)**	Who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission if the person fulfills the requirements set forth in the automatic external defibrillator statute.	Gross negligence or willful or wanton misconduct.
	An individual, business, or organization. **Ind. Code Ann. § 34-30-12-1 (2005)**	That allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.	In good faith, gross negligence or willful or wanton misconduct.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	A licensed physician or national or state approved defibrillator instructor. **Ind. Code Ann. § 34-30-12-1 (2005)**	Who gives medical direction in the use of a defibrillator to a person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from civil liability for any act or omission of the licensed physician or instructor if: (1) the act or omission of the licensed physician or instructor: (A) involves the training for or use of an automatic external defibrillator; and (B) does not amount to gross negligence or willful or wanton misconduct; and (2) the licensed physician or instructor fulfills the requirements of IC 16-31-6.5.	Gross negligence or willful or wanton misconduct.
	Any person. **Ind. Code Ann. § 34-30-12-2 (2005)**	Who has successfully completed a course of training in cardiopulmonary resuscitation according to the standards recommended by the Division of Medical Sciences, National Academy of Sciences -- National Research Council. An act or omission of the person while attempting to administer cardiopulmonary resuscitation, without pecuniary charge, to any person who is an apparent victim of acute cardiopulmonary insufficiency shall not impose any liability upon the person attempting the resuscitation.	Gross negligence or willful or wanton misconduct.
	A health care provider. **Ind. Code Ann. § 34-30-12.5-3 (2005)**	Who administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency after January 23, 2003, under the circumstances described in section 1 of IC 34-30-12.5-1 of this chapter is immune from civil liability for any injury or damage that results from the administration of the inoculation or other countermeasure.	Gross negligence or willful or wanton misconduct.
	Any person. **Ind. Code Ann. § 34-30-13-1 (2005)**	Who meets the following criteria is immune from civil liability resulting from any act or omission relating to the provision of health care services: (1) Has licensure to provide health care services under Indiana law. (2) Voluntarily provides without compensation health care services under IC 36-1-14.2 within the scope of the person's license to another person. (3) Provides the health care services at any medical clinic or health care facility that provides health care services without charge and that: (A) purchases professional liability insurance under IC 36-1-14.2; or (B) is covered under 42 U.S.C. 233.	Gross negligence or willful misconduct.
	Emergency management worker. **Ind. Code Ann. § 10-14-3-15 (2005)**	Complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter, or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, is not liable for the death of or injury to persons or for damage to property as a result of any such activity.	Willful misconduct, gross negligence, or bad faith.
Iowa	Health care providers. **Iowa Code § 135.24 (2005)**	Providing free care under this section shall be considered an employee of the state under and shall be afforded protection as an employee of the state, provided that the health care provider has done all of the following: (a) Registered with the department pursuant to subsection 1 and (b) Provided services through a	

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		hospital, clinic, free clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department.	
	A physician, physician's designee, advanced registered nurse practitioner, physician assistant, emergency medical care provider, registered nurse, or licensed practical nurse. **Iowa Code § 147A.10 (2005)**	Who gives orders, either directly or via communications equipment from some other point, or via standing protocols to an appropriately certified emergency medical care provider, registered nurse, or licensed practical nurse at the scene of an emergency, and an appropriately certified emergency medical care provider, registered nurse, or licensed practical nurse following the orders, are not subject to criminal liability by reason of having issued or executed the orders, and are not liable for civil damages for acts or omissions relating to the issuance or execution of the orders.	Recklessness.
	A physician, physician's designee, advanced registered nurse practitioner, physician assistant, registered nurse, licensed practical nurse, or emergency medical care provider. **Iowa Code § 147A.10 (2005)**	Shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.	
	Certified emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant, the supervising physician, physician designee, advanced registered nurse practitioner, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities	An act of commission or omission of any appropriately certified emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant, while rendering emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability.	Recklessness
	Any person. **Iowa Code § 613.17 (2005)**	Who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter.	Recklessness.
Kansas	Any health care provider. **Kan. Stat. Ann. § 65-2891 (2005)**	Who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions.	Gross negligence, willful or wanton acts or omissions.
	Any health care provider. **Kan. Stat. Ann. § 65-2891 (2005)**	May in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care.	Negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Volunteers of certain nonprofit organizations. **Kan. Stat. Ann. § 60-3601 (2005)**	A nonprofit organization carries general liability insurance coverage, a volunteer of such organization shall not be liable for damages in a civil action for acts or omissions as such volunteer or for the actions or omissions of any of the officers, directors, trustees, employees or other volunteers of the nonprofit organization unless: (1) Such conduct constitutes willful or wanton misconduct or intentionally tortious conduct; or (2) such volunteer is required to be insured by law or is otherwise insured against such acts or omissions but, in such case, liability shall be only to the extent of the insurance coverage.	Willful or wanton misconduct or intentionally tortious conduct
	State and local governments and emergency management volunteers. **Kan. Stat. Ann. § 48-915 (2005)**	Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer worker, or member of any agency, engaged in emergency management activities. Any member of a regional medical emergency response team created under the provisions of K.S.A. 48-928, and amendments thereto, shall be deemed a state employee.	
Kentucky	Any person or entity. **Ky. Rev. Stat. § 311.668 (2005)**	Who, in good faith and without compensation, renders emergency care or treatment by the use of an AED shall be immune from civil liability for any personal injury as a result of the care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment, where the person acts as an ordinary, reasonable prudent person would have acted under the same or similar circumstances.	Gross negligence or willful or wanton misconduct
	Licensed physician, registered or practical nurse licensed, person certified as an emergency medical technician, person certified to perform cardiopulmonary resuscitation, or employee of any board of education who has completed a course in first aid and who maintains current certification. **Ky. Rev. Stat. § 411.148 (2005)**	Shall not be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment excluding house calls, for acts performed at the scene of such emergency. Nothing in this section applies to the administering of such care or treatment where the same is rendered for remuneration or with the expectation of remuneration.	Willful or wanton misconduct.
	Registered or enrolled emergency management workers and volunteers. **Ky. Rev. Stat. § 39A.280 (3) (2005)**	Neither the state nor any political subdivision of the state nor, except in cases of, the employees, agents, or representatives of the state or any of its political divisions, nor any volunteer or auxiliary emergency management agency or disaster and emergency services organization member or disaster and emergency response worker or member of any agency engaged in any emergency management or disaster and emergency services or disaster and emergency response activity, complying with or reasonably attempting to comply with this chapter or any order or administrative regulation promulgated pursuant to the provisions of this chapter, or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of that activity.	Willful misconduct, gross negligence, or bad faith

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
Louisiana	A physician, surgeon, physician assistant, prof. medical corp., or licensed nurse. **La. Rev. Stat. § 37:1731 (2005)**	Who gratuitously renders emergency care or services at the scene of an emergency, to a person in need thereof shall not be liable for any civil damages as a result of any act or omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in said emergency.	In good faith, willful or wanton misconduct or gross negligence.
	A physician, on-call physician, or surgeon or oral and maxillofacial surgeon, or his professional medical or dental corporation or limited liability company, nurse, intern, or resident of a public or private hospital or other medical health care facility licensed in this state. **La. Rev. Stat. § 37:1731 (2005)**	Who in good faith responds to an imminent life-threatening situation or emergency within the hospital or facility and whose actual duty in the hospital or facility did not require a response to an emergency situation shall not be liable for civil damages resulting from any act or omission in rendering the emergency care or service or from failure to provide or arrange for further medical care or treatment of the person involved.	In good faith, willful or wanton misconduct or gross negligence.
	Any physician, surgeon, or member of the medical profession who is holds a valid license to practice medicine in any other state of the United States. **La. Rev. Stat. § 37:1731 (2005)**	Who gratuitously renders care or services at the scene of an emergency as herein provided shall not be charged with violation of the Louisiana Medical Practice Act.	
	Dentist. **La. Rev. Stat. § 37:1731 (2005)**	Who in good faith gratuitously renders emergency care or services at the scene of an emergency, except in a licensed dentist office or public or private hospital, to a person or persons in need thereof shall not be liable for any civil damages as a result of any act or omission by such person in rendering the care or services or as a result of any act or failure to act to provide or arrange for further dental care or treatment or care for the person involved in the emergency.	In good faith.
	Emergency medical technician. **La. Rev. Stat. § 37:1731 (2005)**	Who in good faith gratuitously renders emergency care or services at the scene of an emergency to a person or persons in need thereof shall not be liable for any civil damages as a result of any act or omission in rendering the care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in the emergency.	In good faith.
	Any person. **La. Rev. Stat. § 9:2793 (2005)**	Who in good faith gratuitously renders emergency care, first aid or rescue at the scene of an emergency, or moves a person receiving such care, first aid or rescue to a hospital or other place of medical care shall not be liable for any civil damages as a result of any act or omission in rendering the care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in the said emergency.	In good faith, grossly negligent
	Health care providers. **La. Rev. Stat. § 9:2799.5 (B)(1) (2005)**	Who in good faith gratuitously renders health care services in a community health care clinic or pursuant to an arrangement with a community health care clinic providing that such services will be rendered at the offices of a health care provider shall not be liable for any civil damages as a result of any act or	In good faith, gross negligence or willful or wanton misconduct.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care to any person receiving such services.	
	State health care providers. **La. Rev. Stat. 40:1299.39 (2005)**	Statute provides malpractice liability for "state health care providers" and "persons covered by this part." See statute for more information.	
Maine	Volunteers. **Me. Rev. Stat. tit. 14 § 158-A (2005)**	A director, officer or volunteer is immune from civil liability for personal injury, death or property damage, including any monetary loss: (a) When the cause of action sounds in negligence and arises from an act or omission by the director, officer or volunteer which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves; or (b) Arising from any act or omission, not personal to the director, officer or volunteer, which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves.	
	Licensed health care practitioner. **Me. Rev. Stat. tit. 24 § 2904 (1A) (2005)**	Who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that health care practitioner's licensure: 1) To a nonprofit organization; 2) To an agency of the State or any political subdivision of the State; 3) To members or recipients of services of a nonprofit organization or state or local agency; 4) To support the State's response to a public health threat; 5) To support the State's response to an extreme public health emergency; or 6) To support the State's response to a disaster.	Willfully, wantonly or recklessly or by gross negligence.
	Emergency medical services' person. **Me. Rev. Stat. tit. 24 § 2904 (1B) (2005)**	Who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides emergency medical services within the scope of that person's licensure: 1) To support the State's response to a public health threat; 2) To support the State's response to an extreme public health emergency; or 3) To support the State's response to a disaster.	Willfully, wantonly or recklessly or by gross negligence.
	Retired physicians, podiatrists and dentists. **Me. Rev. Stat. tit. 24 § 2904 (2) (2005)**	Who has retired from practice and who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that physician's, podiatrist's or dentist's licensure is not liable for an injury or death arising from those services: A. To a nonprofit organization; B. To an agency of the State or any political subdivision of the State; C. To members or recipients of services of a nonprofit organization or state or local agency; D. To support the State's response to a public health threat; E. To support the State's response to an extreme public health emergency; or F. To support the State's response to a disaster. (Only if the licensed physician, podiatrist or dentist is retired from practice, possessed an unrestricted license in the relevant profession and had not been disciplined by the licensing board in the previous 5 years at the time of the act or omission causing the injury).	Willfully, wantonly or recklessly.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Any person, health care facility or other emergency services organization. **Me. Rev. Stat. tit. 32 § 93 (2005)**	Acting in good faith is immune from civil liability to the licensee or applicant for licensure for the following actions: 1. REPORT; INFORMATION. Making any report or other information available to Maine Emergency Medical Services under this chapter; and 2. ASSISTING. Assisting Maine Emergency Medical Services in carrying out any of its duties.	In good faith.
	Any person. **Me. Rev. Stat. tit. 14 § 1647 (2005)**	Who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, shall not be liable for damages for injuries alleged to have been sustained by such person nor for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance. This section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic.	Willfully, wantonly or recklessly or by gross negligence.
Maryland	Licensed health care professionals, member of any State, county, municipal, or volunteer fire department, ambulance and rescue squad or law enforcement agency or of the National Ski Patrol System, or a corporate fire department responding to a call outside of its corporate premises, a volunteer fire department, ambulance and rescue squad whose members have immunity, corporation when its fire department personnel are immune. **Courts and Judicial Proceedings, § 5-603**	Assistance or medical care provided without fee or other compensation, at the scene of an emergency; in transit to a medical facility; or through communications with personnel providing emergency assistance.	Other than ordinary negligence, gross negligence.
Massachusetts	Physicians, physician assistants, nurses registered in any state or Canada. **M.G.L. c. 112, § 12B**	Emergency care or treatment other than in the ordinary course of practice without a fee.	In good faith
	12BB: Respiratory therapists licensed in MA. **M.G.L. c. 112, § 23BB**	Emergency care or treatment other than in the ordinary course of practice without a fee.	In good faith
	People trained in CPR, AEDs, or basic cardiac life support. **M.G.L. c. 112, § 12V**	Emergency CPR or defibrillation other than in course of regular professional or business activity without compensation	In good faith
	Physicians, nurses, hospitals. **M.G.L. c. 111C, § 20**	Giving advice by remote communication to qualified EMS personnel	In good faith

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	EMS personnel. **M.G.L. c. 111C, § 20** Certified, etc. EMS personnel. **M.G.L. c. 111C, § 21**	Relying on the advice of the above Emergency services in the performance of their duties or as a result of transporting a person	In good faith In good faith
Michigan	Physician, physician's assistant, registered professional nurse, or licensed practical nurse. **Mich.C.L.A. 691.1501**	Emergency care without compensation at the scene of an emergency, if a physician-patient relationship, physician's assistant-patient relationship, registered professional nurse-patient relationship, or licensed practical nurse-patient relationship did not exist before the emergency	In good faith, gross negligence, willful/wanton misconduct.
Minnesota	Any person. **Minn. Stat. § 604A.01.**	Scene of emergency outside of hospital or physician's office, or during transit to location where professional care can be rendered. No protection if compensation for services. *Note, there is an affirmative duty to assist in an emergency situation*	Willful/wanton or reckless
Mississippi	Any licensed, practicing physician, dentist, registered nurse, licensed practical nurse, certified registered emergency medical technician, or any other person. **Miss. Code Ann. § 73-25-37 (2005)**	Who, in good faith and in the exercise of reasonable care, renders emergency care to any injured person at the scene of an emergency, or in transporting the injured person to a point where medical assistance can be reasonably expected, shall be liable for any civil damages to the injured person as a result of any acts committed in good faith and in the exercise of reasonable care or omissions in good faith and in the exercise of reasonable care by such persons in rendering the emergency care to the injured person.	In good faith.
	Any person. **Miss. Code Ann. § 73-25-37 (2005)**	Who in good faith, with or without compensation, renders emergency care or treatment by the use of an automated external defibrillator (AED) in accordance with the provisions of Sections 41-60-31 through 41-60-35, shall be immune from civil liability for any personal injury as a result of that care or treatment, or as a result of any act, or failure to act, in providing or arranging further medical treatment, where the person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances and the person's actions or failure to act does not amount to willful or wanton misconduct or gross negligence. This immunity includes the licensed physician who is involved with AED site placement, and the person who provides the CPR and AED training.	In good faith, gross negligence or willful or wanton misconduct.
	Qualified volunteer. **Miss. Code Ann. § 95-9-1 (2005)**	A qualified volunteer shall not be held vicariously liable for the negligence of another in connection with or as a consequence of his volunteer activities. A qualified volunteer who renders assistance to a participant in, or a recipient, consumer or user of the services or benefits of a volunteer activity shall not be liable for any civil damages for any personal injury or property damage caused to a person as a result of any acts or omissions committed in good faith.	Intentional, willful, wanton, reckless or grossly negligent.
	Licensed physician or certified nurse practitioner. **Miss. Code Ann. § 73-25-38 (1) (2005)**	Who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for said services shall be immune from liability for any civil action arising out of the provision of such medical or health services provided in good faith on a	Willful or gross negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		charitable basis. This section shall not extend immunity to acts of willful or gross negligence.	
	Any physician. **Miss. Code Ann. § 73-25-38 (2) (2005)**	Who voluntarily renders any medical service under a special volunteer medical license authorized under Section 73-25-18 without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service.	Gross negligence or willful misconduct.
	Retired physician granted special volunteer medical license. **Miss. Code Ann. § 73-25-38 (3) (2005)**	Shall be immune from liability for any civil action arising out of any medical care or treatment provided while voluntarily serving as "doctor of the day" for members of the Mississippi State Legislature, legislative or other state employees, or any visitors to the State Capitol on the date of such service.	Willful or gross negligence or misconduct.
Missouri	Licensed (in any state) health care professional or a person trained to provide first aid in a standard recognized training program. **MSA § 537.037**	Scene of emergency or accident. No if compensation.	In good faith, gross negligence or willful/wanton
Montana	Any person. **Mont. Code Annot., § 27-1-714 (2005)**	Who renders emergency care or assistance without compensation at the scene of an emergency or accident is not liable for any civil damages for acts or omissions by such person in rendering such emergency care or assistance.	In good faith, gross negligence, willful or wanton acts.
Nebraska	Any person. **NE ST § 25-21,186**	Gratuitously rendered emergency care at the scene of an accident or other emergency.	
Nevada	Any person, employee or volunteer of a public firefighting organization. **N.R.S. 41.500**	Gratuitously rendered emergency care or assistance in an emergency.	In good faith, gross negligence.
	Ambulance driver or attendant on an ambulance operated by a government or volunteer service, member of a search and rescue organization.	Emergency care or assistance to any injured or ill person, whether at the scene of an emergency or while transporting an injured or ill person to or from any clinic, doctor's office or other medical facility.	In good faith, gross negligence.
	Any appointed member of a volunteer service operating an ambulance or an appointed volunteer serving on an ambulance operated by a political subdivision of this state, other than a driver or attendant, of an ambulance.	Any act or omission.	In good faith, gross negligence.
	Person trained in CPR or the use of an automated external defibrillator.	Emergency medical care involving the use of an automated external defibrillator.	In good faith, gross negligence.
	Person trained in CPR and basic emergency care for persons in cardiac arrest.	Cardiopulmonary resuscitation in accordance with his training or the medical direction a dispatcher for an ambulance, air ambulance or other agency that	In good faith, gross negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		provides emergency medical services before its arrival at the scene of the emergency, other than in the course of his regular employment or profession	
New Hampshire	Any person, law enforcement officers. **N.H. Rev. Stat. § 508:12**	Emergency care at the place of the happening of an emergency or to a victim of a crime or delinquent act or while in transit in an ambulance or rescue vehicle, to a person who is in urgent need of care as a result of the emergency or crime or a delinquent act, without direct compensation from the person to whom the care is rendered.	In good faith, willful/wanton negligence.
New Jersey	Any individual, including a licensed health professionals, or any person who is a volunteer member of a first aid and emergency or volunteer ambulance or rescue squad association. **N.J.S.A. 2A:62A-1, 2A:62A-8, 2A:62A-9**	Emergency care at the scene of an accident or emergency to the victim or victims thereof, or while transporting the victim or victims thereof to a hospital or other facility where treatment or care is to be rendered. No protection if remuneration or expectation of remuneration for services.	In good faith, Gross negligence, reckless, willful, wanton or intentional misconduct.
	Any person who acquires or provides a defibrillator. **N.J.S.A. 2A:62A-27**	Emergency care or treatment by the use of a defibrillator or supervises such care or treatment.	In good faith, gross negligence/ willful/wanton misconduct.
New Mexico	Any person. **N. M. S. A. 1978, § 24-10-3**	Providing care or assistance at or near the scene of an emergency without remuneration.	In good faith, gross negligence.
New York	Any person, physician, physician assistant, dentist, physical therapist, nurse, podiatrist. **Public Health Law § 3000-a(1), Education Law §§ 6527, 6547, 6611, 6737, 6909, 7006.**	First aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, provided voluntarily and without the expectation of monetary compensation.	Gross negligence.
	An emergency health care provider, or a person who, or entity, partnership, corporation, firm or society that, purchases or makes available resuscitation equipment that facilitates first aid, an automated external defibrillator or an epinephrine auto-injector device. **Public Health Law § 3000-a(2)**	Use of the equipment to render first aid or emergency treatment at the scene of an accident or medical emergency, or from the use of defectively manufactured equipment. No protection unless services rendered voluntarily and without expectation of monetary compensation.	Negligence, gross negligence, intentional misconduct.
North Carolina	Any person, including a volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center or a volunteer member of a rescue squad. **N.C.G.S.A. § 90-21.14**	First aid or emergency health care treatment to a person who is unconscious, ill or injured, (1) When the reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and (2) When the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the person. No protection if compensation for services.	Gross negligence, wanton conduct or intentional wrongdoing
North Dakota	Any person or their employer. **N.D. Cent. Code, § 32-03.1-02 (2005)**	Who renders aid or assistance necessary or helpful in the circumstances to other persons who have been injured or are ill as the result of an accident or illness, or any mechanical, external or organic trauma, may be named as a defendant or	Intentional misconduct or gross negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		held liable in any personal injury civil action by any party in this state for acts or omissions arising out of a situation in which emergency aid or assistance is rendered.	
	Any person. **N.D. Cent. Code, § 10-33-48 (2005) & N.D. Cent. Code, § 32-03-45 (2005)**	Who, on a volunteer basis, provides services or performs duties on behalf of a corporation or a nonprofit organization are immune from civil liability for any act or omission resulting in damage or injury if the person who caused the damage or injury was acting in the scope of that person's duties as a volunteer for the corporation.	In good faith, willful misconduct or gross negligence.
	See also. **N.D. Cent. Code, § 32-03.1-02.2**.	Immunity for a licensed health care provider who provides volunteer medical care at free clinics.	
Ohio	Any person. **ORC Am. 2305.23 (2004)**	Scene of emergency outside of hospital, physician's office or other place w/ medical equipment. No protection if remuneration for services.	Willful/ wanton
Oklahoma	Licensed health practitioners. **59 Okl. St. Ann. § 518**	Emergency care or treatment at the scene of the emergency, treatment of a minor without parental consent in an emergency.	In good faith.
Oregon	Any person. **O.R.S. § 30.800**	Emergency medical care not provided in a place where emergency medical or dental care is regularly available. No protection unless care provided voluntarily and without compensation.	Gross negligence.
Pennsylvania	Any physician or any other practitioner of the healing arts or any registered nurse, licensed by any state. **42 Pa. C.S.A. §§ 8331**	Emergency care at the scene of the emergency.	In good faith, gross negligence, acts intended to harm.
	Any individual who is trained to use an automated external defibrillator. **42 Pa. C.S.A. § 8331.2**	Uses of an AED in an emergency.	In good faith, gross negligence, acts intended to harm.
	Any person. **42 Pa. C.S.A. § 8331.3**	Assistance for a victim of a personal injury crime at the scene of the personal injury crime or attempted personal injury crime.	Gross negligence; willful, wanton or reckless conduct; acts intended to harm.
	Any person trained in first aid, advanced life saving or basic life support. **42 Pa. C.S.A. 8332**	Emergency care, first aid or rescue at the scene of an emergency, or moves the person receiving such care, first aid and rescue to a hospital or other place of medical care.	Other than ordinary negligence, gross negligence, acts intended to harm.
	Any person. **42 Pa. C.S.A. § 8332.4**	Public services for a nonprofit organization or government agency conducting or	Other than ordinary

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		sponsoring a public service program or project. No protection unless services are voluntary and without compensation.	negligence.
Rhode Island	Any person. **R.I. Gen. Laws § 9-1-27.1 (2006)**	Who voluntarily and gratuitously renders emergency assistance to a person in need thereof including the administration of life saving treatment to those persons suffering from anaphylactic shock shall not be liable for civil damages which result from acts or omissions by such persons rendering the emergency care, which may constitute ordinary negligence.	Gross negligence or willful or wanton conduct.
	Any person. **R.I. Gen. Laws § 9-1-34 (2006)**	Who gratuitously renders emergency assistance in the nature of cardiopulmonary resuscitation or automated external defibrillation to a person in need thereof, shall not be liable for civil damages for any personal injuries which result from acts or omissions by such persons rendering the emergency care, which may constitute ordinary negligence; provided, however, that this immunity applies only to persons who have been trained in accordance with standards promulgated by either the American heart association or the American national red cross. This immunity shall also extend to persons providing approved training in cardiopulmonary resuscitation and use of automated external defibrillation in accordance with standards promulgated by either the American heart association or the American national red cross and to physicians providing medical direction oversight for programs of automated external defibrillator use.	Gross, willful, or wanton negligence
South Carolina	Any person. **S.C. Code Ann. § 15-1-310 (2005)**	Who gratuitously renders emergency care at the scene of an accident or emergency to the victim thereof, shall not be liable for any civil damages for any personal injury as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person.	In good faith, gross negligence or willful or wanton misconduct.
South Dakota	Any volunteer. **S.D. Codified Laws § 47-23-29 (2006)**	Of a nonprofit organization, a nonprofit corporation, a free clinic, any hospital organized pursuant to chapters 34-8, 34-9 or 34-10, or a governmental entity shall be immune from civil liability in any action brought in any court in this state on the basis of any act or omission resulting in damage or injury.	In good faith, gross negligence or willful and wanton misconduct.
	Physicians, surgeons, osteopaths, registered nurses or licensed practical nurses duly licensed to practice their profession in another state of the United States. **S.D. Codified Laws § 20-9-4 (2006)**	Who renders in this state emergency care at the scene of the emergency, shall not be liable as specified in § 20-9-3, nor shall he be deemed to be practicing medicine or nursing within this state as contemplated by chapters 36-2, 36-4 and 36-9.	
	Physicians, surgeons, osteopaths, physician assistants, registered nurses or licensed practical nurses. **S.D. Codified Laws § 20-9-3**	Who in good faith renders, in this state, emergency care at the scene of the emergency, shall not be liable for any civil damages as a result of any acts or omissions by such person rendering the emergency care.	In good faith.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	(2006)		
Tennessee	Any person. **Tenn. Code Ann. § 63-6-218 (2005)**	Renders emergency care at the scene of an accident, medical emergency and/or disaster, while en route from such scene to a medical facility and while assisting medical personnel at the receiving medical facility, including use of an automated external defibrillator, to the victim or victims thereof without making any direct charge for the emergency care.	In good faith.
	Any person licensed, certified or authorized by the board of any of the professions of healing arts. **Tenn. Code Ann. § 63-6-708 (2005)**	Who renders, at any site, any health care services within the limits of the person's license, certification or authorization, voluntarily and without compensation, to any sponsoring organization within the meaning of this part, or to any patient of any clinic that is organized in whole or in part for the delivery of health care services without charge. The volunteer licensee must be acting within the scope of such license, certification or authority. No health care licensee providing free health care may engage in activities at a clinic that the clinic itself is not authorized to perform.	Gross negligence or willful misconduct.
	Physicians or Nurses. **Tenn. Code Ann. § 68-140-512 (2005)**	Who give orders or instructions to emergency medical technicians or paramedics, operating within their technical abilities for emergency care authorized by this part, nor any personnel following such orders, shall not be liable civilly or criminally by reason of having issued or followed the orders except insofar as the rules of law of negligence are applicable.	In good faith, negligence.
Texas	Any person. **Texas Civ. Prac. & Remedies Code § 74.151**	Emergency care during an emergency. No protection if remuneration for services, or own negligent act or omission was cause of emergency.	Willful/ wanton
Utah	Health care providers. **Utah Code Ann. § 58-13-2 (2005)**	Who are under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care. Or	In good faith.
		Who are under no legal duty to respond to the circumstances, who are activated as a member of a medical reserve corps during the time of an emergency; and who are acting within the scope of the health care professional's license, or within the scope of practice; and who are acting in good faith without compensation or remuneration. Rendering care as a result of implementation of measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health; investigating and controlling suspected bioterrorism and disease; and responding to a national, state, or local emergency, a public health emergency.	In good faith.
	Any person. **Utah Code Ann. § 78-11-22 (2005)**	Who renders emergency care at or near the scene of, or during an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as	In good faith, grossly negligent.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.	
	Any person. **Utah Code Ann. § 78-11-22 (2005)**	Who gratuitously, and in good faith, assists governmental agencies or political subdivisions in the following activities is not liable for any civil damages or penalties as a result of any act or omission: (a) implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health; (b) investigating and controlling suspected bioterrorism and disease; and (c) responding to a national, state, or local emergency, a public health emergency.	In good faith, grossly negligent.
	Volunteers. **Utah Code Ann. § 78-19-2 (2005)**	Providing services for a nonprofit organization do not incur any legal liability for any act or omission while providing services for the nonprofit organization. No volunteer incurs any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization.	In good faith, intentional or knowing act, illegal, willful, or wanton misconduct.
	See also. **Utah Code Ann. § 58-13-3** Qualified immunity for health professionals providing charity care (2005)		
Vermont	Any person. **Vt. Stat. Ann. tit. 12, § 519 (2006)**	Who knows that another is exposed to grave physical harm shall, to the extent that the same can be rendered without danger or peril to himself or without interference with important duties owed to others, give reasonable assistance to the exposed person unless that assistance or care is being provided by others. A person who provides reasonable assistance in compliance with this subsection shall not be liable in civil damages unless his acts constitute gross negligence or unless he will receive or expects to receive remuneration.	Gross negligence, willfully.
	The state, any of its agencies, political subdivisions, local emergency planning committees or an emergency management worker, individual, partnership, association or corporation involved in civil defense or emergency management activities. **Vt. Stat. Ann. tit. 20, § 20 (2006)**	Involved in civil defense or emergency management activities shall not be liable for the death of or any injury to persons or loss or damage to property resulting from an emergency management service or response activity, including, but not limited to, the development of local emergency plans and the response to those plans.	Willful misconduct or gross negligence
Virginia	Any person. **Va. Code Ann. § 8.01-225(A)(1)**	Emergency care or assistance, without compensation, to any ill or injured person at the scene of an accident, fire, or any life-threatening emergency, or en route there from to any hospital, medical clinic or doctor's office.	
	Any person. **Va. Code Ann. § 8.01-225(A)(2)**	Emergency obstetrical care or assistance to a female in active labor.	Gross negligence.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
	Any person. **Va. Code Ann. § 8.01-225(A)(3)**	Administration of epinephrine in an emergency, without compensation.	Other than ordinary negligence, in good faith.
	Any person. **Va. Code Ann. § 8.01-225(A)(4)**	Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste.	In good faith.
	Certified emergency medical care attendant or technician. **Va. Code Ann. § 8.01-225(A)(5)**	Emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility.	In good faith.
	Any person. **Va. Code Ann. § 8.01-225(A)(6)**	Emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility.	In good faith.
	Any licensed physician serving as the operational medical director for a licensed emergency medical services agency. **Va. Code Ann. § 8.01-225(B)**	Emergency medical services, without compensation.	In good faith, gross negligence, willful misconduct.
Washington	Any person, including but not limited to a volunteer provider of emergency or medical services. **West's RCWA 4.24.300**	Care at the scene of an emergency or who participates in transporting, not for compensation, there from an injured person or persons for emergency medical treatment, without compensation or the expectation of compensation.	Gross negligence, willful/wanton misconduct.
West Virginia	Any person. **W. Va. Code § 55-7-15**	Scene of accident or victim at scene of crime. No protection if remuneration for services.	In good faith
Wisconsin	Any person. **Wis. Stat. § 895.48/2003**	Scene of emergency or accident. No protection if compensation for services and within scope of usual employment duties.	In good faith
Wyoming	Physicians, surgeons, or any person. **Wyo. Stat. § 1-1-120 (2006)** Volunteer health care professionals. **Wyo. Stat. § 1-1-129 (2006)**	Who renders emergency care or assistance without compensation at the place of an emergency or accident. Are not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental or other health-related claim for injury, death or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit health care facility to a low income uninsured person of medical, dental or other health-	In good faith. Willful or wanton misconduct.

State	Who is Protected (& Citation)	Circumstances	Neglig. Std.
		related diagnosis, care or treatment, including the provision of samples of medicine and other medical or dental products.	
	Volunteers. **Wyo. Stat. § 1-1-125 (2006)**	Who provide services or perform duties on behalf of a nonprofit organization or a volunteer fire department is personally immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission if the person was acting within the scope of his duties as a volunteer for the nonprofit organization or volunteer fire department.	Willful or wanton misconduct or gross negligence.

APPENDIX E.

Employment Status of Volunteers During an Emergency in ESAR-VHP Phase I-III States

State	Description of Workers' Compensation Coverage	Citation
Alabama	The Director of Emergency Management is statutorily authorized to purchase workers' compensation insurance to provide coverage to emergency management workers. "Emergency management workers" include volunteers providing emergency management services.	Ala. Code 1975 §§ 31-9-21, 31-9-16 (2005).
Alaska	Residents of Alaska temporarily engaged as a civilian volunteer in an emergency or a disaster relief function in another state or country or in this state who suffers injury or death during the course and within the scope of providing emergency or disaster relief aid is considered an employee of the state for purposes of workers' compensation. An unpaid volunteer civil defense worker is not regarded as an employee of the state for compensation coverage purposes. Volunteer civil defense workers are not covered by the Alaska Workmen's Compensation Act because they are not "employees" under that Act. An Attorney General opinion on whether workers' compensation benefits extend to volunteers under the Division of Military Affairs' proposed Disaster Volunteer Program states that disaster volunteers would not fall under the protection of the Alaska Workers' Compensation Act.	Alaska Stat. § 23.30.244 (2005) 1963 Op. Atty Gen. Alas. No. 8 (1963) 1983 Op. Atty Gen. Alas. No. 52 (1983)
Arizona	Volunteer workers of a licensed health care institution may be deemed to be employees and entitled to the benefits provided by this chapter (workers' compensation) upon written acceptance by the insurance carrier of an application by the health care institution for coverage of such volunteers. Additionally, personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision and who serve without compensation as volunteer state employees. Volunteer workers of a county, city, town, or other political subdivision of the state may be deemed to be employees and entitled to the benefits provided by this chapter (workers' compensation) upon the passage of a resolution or ordinance by the political subdivision defining the nature and type of volunteer work and workers to be entitled to such benefits.	Ariz. Rev. Stat. § 23-901 (2006) Ariz. Rev. Stat. § 23-901.06 (2006)
Arkansas	For the purpose of workers' compensation coverage in cases of injury to or death of an individual, all duly and qualified emergency services volunteer workers shall be deemed local government or state employees and shall receive compensation, and their survivors shall receive death benefits in like manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency services volunteer workers.	Ark. Code Ann. § 12-75-129 (2005)
California	Disaster service workers, including volunteers are entitled to workers compensation coverage from the state or political subdivision for whom they are providing services.	West's Ann.Cal.Labor Code § 4351 (2003)
Colorado	Insofar as not inconsistent with the provisions of this part 22, all of the provisions of the "Workers' Compensation Act of Colorado" shall apply to civil defense workers and their dependents and to the furnishing of compensation and medical, dental, and funeral benefits to them or their dependents. "Employee", as used in said act, includes a civil defense worker when liability for the furnishing of the compensation and benefits exists pursuant to the provisions of this part 22 and as limited by the provisions of this part 22.	Colo. Rev. Stat. § 24-32-2208 (2005)
Connecticut	"Civil preparedness personnel" shall be compensated as employees of the state.	Conn. Gen. Stat. §§ 28-1, 28-14
Delaware	None.	
District of Columbia	None.	
Florida	Individuals who provide assistance at the request of the State Health Officer or on a volunteer basis, during a public health emergency, enjoy workers' compensation and	West's F.S.A. §§ 110.504,

State	Description of Workers' Compensation Coverage	Citation
	liability protections as though they were employees of the state.	381.00315(2) (2002).
Georgia	The term employee, under the Workers' Compensation Act includes "any person who is a volunteer member or worker of an emergency management or civil defense organization, emergency medical service, or rescue organization, whether governmental or not, of any county or municipality of this state for volunteer services, which are not prohibited by Code Section 38-3-36, rendered in such capacity and only if the governing authority of the county or municipality for which such services are rendered shall provide by appropriate resolution for inclusion of such volunteer members or workers." A host political subdivision is liable for "compensation due to personal injury or death while the employees are engaged in rendering the aid. The term 'employee,' as used in this Code section, shall mean, and this Code section shall apply with equal effect to, paid, volunteer, and auxiliary employees and emergency management workers."	Ga. Code Ann., § 34-9-1(2) (2005). Ga. Code Ann., § 38-3-30 (2005).
Hawaii	"All persons, including volunteers whose services have been accepted by persons authorized by the director, shall, while engaged in the performance of duty pursuant to this chapter, including duty performed during periods of training, be deemed state employees and shall have the powers, duties, rights, and privileges of employees in the performance of their duty."	HI ST § 127-7 (2004).
Idaho	Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of workers' compensation, to be in the employment of the state. Under Idaho's Interstate Mutual Aid Compact all privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state within its territorial limits also apply while performing their functions extraterritorially.	Idaho Code § 72-205 (2006) Idaho Code § 46-1018 (2006)
Illinois	A volunteer who is a duly qualified and enrolled (sworn in) as a volunteer of the Illinois Emergency Management Agency or an emergency services and disaster agency accredited by the Illinois Emergency Management Agency is compensated as employees of the state.	20 ILCS 3305/10
Indiana	(a) "Volunteer worker" means a person who: (1) performs services: (A) for a state institution and (B) for which the person does not receive compensation of any nature; and (2) has been approved and accepted as a volunteer worker by the director of: (A) the division of disability, aging, and rehabilitative services; or (B) the division f mental health and addiction. (b) Services of any nature performed by a volunteer worker for a state institution are governmental services. A volunteer worker is subject to the medical benefits described. A volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). A rostered volunteer may be covered by the medical treatment provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational disease law (IC 22-3-7). If compensability of an injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-7 apply as appropriate.	Ind. Code Ann. § 22-3-2-2.3 (2005) Ind. Code Ann. § 10-14-3-15 (2005) Ind. Code Ann. § 22-3-2-2.1 (2005)
Iowa	A certified disaster service volunteer of the American red cross shall not be deemed to be an employee of the state for purposes of workers' compensation. Pursuant to Iowa's statewide emergency aid compact each participating government shall provide for the payment of workers' compensation and death benefits to injured members of the emergency forces of that participating government and representatives of deceased members of the emergency forces in case the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.	Iowa Code § 70A.26 (2005) Iowa Code § 29C.22 (2005)
Kansas	Workers' Compensation is available to volunteers in any employment, if the employer has	Kan. Stat. Ann. §

State	Description of Workers' Compensation Coverage	Citation
	filed an election to extend coverage to such volunteers	44-508 (2005)
Kentucky	Every person who is a regularly-enrolled volunteer member or trainee of an emergency management agency, as established under KRS Chapters 39A to 39E, shall be deemed, for the purposes of this chapter (workers' compensation coverage), to be in the employment of this state. Local emergency management agencies, including local directors or their deputies, and other local emergency management agency staff personnel and workers, and local emergency management agency-supervised operating units or personnel officially affiliated with the local disaster and emergency services organizations pursuant to KRS 39B.070, paid or volunteer, for the purposes of receiving workers' compensation benefits paid by the division, shall be covered by those benefits when performing emergency assessment, mitigation, preparedness, response, or recovery functions, subject to limitations. Under Kentucky's Mutual Aid Agreement: Kentucky emergency management-provided workers' compensation shall apply to a state or local emergency management agency worker, paid or volunteer, or worker in an operating unit officially affiliated with the division, or worker in a local emergency management agency-supervised operating unit officially affiliated with a local disaster and emergency services organization, who is serving in another state pursuant to an agreement consummated under this section. An emergency management worker from another state, paid or volunteer, who is working for or affiliated with the state emergency management agency and who is serving in Kentucky pursuant to an agreement consummated under this section may be accorded Kentucky emergency management workers' compensation coverage by action of the director.	Ky. Rev. Stat. Ann. § 342.640 (2005) Ky. Rev. Stat. Ann. § 39C.110 (2005) Ky. Rev. Stat. Ann. § 39A.260 (2005)
Louisiana	None.	
Maine	Any person called and employed for assistance by the Maine Emergency Management Agency or local organizations for emergency management is deemed to be an employee of the State for purposes of immunity from liability pursuant to section 822 and for purposes of workers' compensation insurance pursuant to section 823, except for persons excluded from the definition of employee pursuant to Title 39-A, section 102, subsection 11. All members of the emergency management forces are deemed to be employees of the State while on, or training for, emergency management duty. They have all the rights given to state employees under the former Maine Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. For purposes of workers' compensation, duties performed while on a volunteer disaster relief assignment for the American Red Cross may not be considered a work assignment by a state agency or municipality.	Me. Rev. Stat. Ann. tit. 37-B, § 784-A (2005) Me. Rev. Stat. Ann. tit. 37-B, § 823 (2005) Me. Rev. Stat. Ann. tit. 39-A, § 102 (2005)
Maryland	(a)(1) Except as provided in paragraph (2) of this subsection, each regularly enrolled volunteer member or trainee of the Maryland Emergency Management Agency established under the Maryland Emergency Management Agency Act is a covered employee. (2) A volunteer member or trainee in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee. (b) For the purposes of this title, the State is the employer of each individual who is a covered employee under this section.	MD Code, Labor and Employment, § 9-232 (2005).
Massachusetts	None. The Commonwealth is not liable for workers' compensation claims for employees on authorized leave of absence with American Red Cross as a certified disaster volunteer.	Mass. Gen. Laws ch. 30, § 9I
Michigan	A volunteer civil defense worker who is a member of the civil defense forces as provided by law and is registered on the permanent roster of the civil defense organization of the state or a political subdivision of the state shall be considered to be an employee of the	Mich. Comp. Laws § 418.161 (2005)

State	Description of Workers' Compensation Coverage	Citation
	state or the political subdivision on whose permanent roster the employee is enrolled when engaged in the performance of duty and shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the state or political subdivision for purposes of calculating the weekly rate of compensation provided under this act. Disaster relief forces may include volunteer members. Volunteers, who are not employees of the state or a political subdivision of the state, are entitled to the same rights and immunities as provided by law for the employees of the state. All personnel of disaster relief forces are, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.	Mich. Comp. Laws § 30.411 (2006)
Minnesota	The following volunteers are considered employees under state workers' compensation laws: ambulance drivers and attendants, first responders, worker accepted by the commissioner of administration, or peace time civil defense worker. (Note, it is unclear whether any of these categories cover VHPs.)	Minn. Stat. § 176.011
Mississippi	Certified disaster service volunteers of the American Red Cross shall not be deemed to be an employee of the state for purposes of workers' compensation or for purposes of claims against the state. All personnel of emergency management support forces (including those who are not employees of the state or a political subdivision) shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses, and for death, disability or injury to such personnel while on such emergency duty as a member of an emergency management support force, the state shall pay compensation to the heirs in event of death or the individual in event of injury or disability in accordance with payment schedules contained in the Mississippi Workers' Compensation Law.	Miss. Code Ann. § 25-3-92 (2005) Miss. Code Ann. § 33-15-15 (2005)
Missouri	None. Specifically excludes volunteers of tax-exempt organizations.	Mo. Rev. Stat. § 287.090
Montana	Under Montana's Interstate Mutual Aid Compact, all privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits apply to the same extent while performing their functions extraterritorially under the provisions of this compact. Volunteers may include but are not limited to physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers. Montana's Workers' Compensation Act applies to all employers and to all employees. The term employee does not include performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. However, with the approval of the insurer, an employer may elect to include any volunteer as an employee.	Mont. Code Ann. § 10-3-207 (2005) Mont. Code Anno., § 39-71-401 (2005) & Mont. Code Anno., § 39-71-118 (2005)
Nebraska	For purposes of workers' compensation protection, the term employee or worker includes "[m]embers of the Nebraska Emergency Management Agency, any city, village, county, or interjurisdictional emergency management organization, or any state emergency response team, which agency, organization, or team is regularly organized under the laws of the State of Nebraska. Such members shall be deemed employees of such agency, organization, or team while in the performance of their duties as members of such agency, organization, or team." Emergency management workers include volunteers.	NE ST § 48-115; 81-829.39 (2004).
Nevada	"Persons who perform volunteer work in any formal program which is being conducted: 1. Within a state or local public organization; 2. By a federally assisted organization; or 3. By a private, incorporated, nonprofit organization which provides services to the general community, and who are not specifically covered by any other provisions of chapters 616A to 616D, inclusive, of NRS, while engaged in such volunteer work, may be deemed by an insurer, for the purposes of those chapters, as employees of that organization at a	N.R.S. 616A.130 (2005).

State	Description of Workers' Compensation Coverage	Citation
	wage of $100 per month."	
New Hampshire	Volunteer emergency management workers are entitled to the same rights as to compensation for injuries as are provided by law for the employees of this state.	N.H. Rev. Stat. § 21-P:41(VI)(c) (2002).
New Jersey	"Benefits as provided in this act shall be the exclusive remedy of a civil defense volunteer, his or her spouse, dependents, or legal representative or representatives, for any injury, disease or death arising out of and in the course of civil defense volunteer service, as against the State, any political subdivision of this State, any civil defense agency or any person or other agency acting under governmental authority in furtherance of civil defense activities, with or without negligence. A member of a civil defense agency of the Federal Government or of another State, who may perform services within this State, whether pursuant to a mutual aid compact or otherwise, shall not be entitled to benefits under the provisions of this act." Health care workers, public health workers and support services personnel, registered with the Emergency Health Care Provider Registry, and persons doing work related to bioterrorism, or volunteering, for the Department of Agriculture, as authorized by the Secretary of Agriculture, who are injured in line of duty are entitled to workers compensation coverage as state employees. Actions undertaken "in the line of duty," include "participation in any activities authorized pursuant to P.L.1942, c. 251 (C.App.A:9-33 et seq.), including participation in any State, county, municipal or regional search and rescue task force or team, except that the terms shall not include activities engaged in by a member of an emergency management agency of the United States Government or of another state, whether pursuant to a mutual aid compact or otherwise."	N.J.S.A. App. A:9-57.7, A:9-57.26 (2005). N.J.S.A. 34:15-43 (2005).
New Mexico	None.	
New York	Civil defense volunteers who are personnel of volunteer agencies sponsored or authorized by a local office under regulations of the civil defense commission are deemed to be in the special employment of his local office.	McKinney's Workers' Compensation Law § 2 (2005); McKinney's Workers' Compensation Law § 303 (2005).
North Carolina	(d) . . ."[E]mergency management worker" shall include any full or part-time paid, volunteer or auxiliary employee of this State or other states, territories, possessions or the District of Columbia, of the federal government or any neighboring country or of any political subdivision thereof or of any agency or organization performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof. The term " emergency management worker" under this section shall also include a person performing emergency health care services under G.S. 90-12.2. (e) Any emergency management worker, as defined in this section, performing emergency management services at any place in this State pursuant to agreements, compacts or arrangements for mutual aid and assistance to which the State or a political subdivision thereof is a party, shall possess the same powers, duties, immunities and privileges he would ordinarily possess if performing his duties in the State, or political subdivision thereof in which normally employed or rendering services."	N.C.G.S.A. § 166A-14 (2005)
North Dakota	None, except under North Dakota's Interstate Mutual Aid Agreement where each party state is required provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.	N.D. Cent. Code § 37-17.1-06 (2005)
Ohio	For state workers' compensation laws, "employee" includes off-duty first responders, emergency medical technicians whether paid or volunteer. In addition, registered "emergency management workers" are covered as employment of the state or political	Ohio Rev. Code Ann. §§ 4123.01, 4122.033

State	Description of Workers' Compensation Coverage	Citation
	subdivision.	
Oklahoma	Employees of the state entitled to workers' compensation benefits include "any authorized voluntary or uncompensated worker, rendering services as a firefighter, peace officer or emergency management worker. . . . "[E]mployee" shall not include any other person providing or performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitative therapy, transportation, lodging or reimbursement for incidental expenses."	85 Okl. St. Ann. § 3
Oregon	(1) An emergency service worker [which includes registered volunteers] may apply for and may receive benefits as provided in ORS 401.355 to 401.465 for injury sustained in emergency service performed within or without the state: (a) Where the injury is proximately caused by or in the course of emergency service, with or without negligence of the emergency service worker. (b) Where the injury is not caused by the voluntary intoxication of the emergency service worker. (c) Where the injury is not intentionally self-inflicted. (2) No emergency service worker or beneficiary is eligible for benefits under ORS 401.355 to 401.465: (a) If the emergency service worker is entitled to receive benefits under the workers' compensation laws of this state or similar statutes in other states or under any disability, retirement or liability insurance program of the worker's regular employer who has contributed to the cost thereof, or under any federal or local program for compensation of injuries of public employees, in those cases where the injury is compensable because it arose out of and in the course of emergency service duties performed as part of the regular employment of the emergency service worker. (b) If the emergency service worker is a member of a federal emergency management or emergency service agency or an emergency management or emergency service agency of another state or foreign nation who is performing emergency services in this state. (1) Emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services without compensation under ORS 401.651 to 401.670 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of those services. (2) Health care facilities and other persons operating emergency health care centers designated under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of services provided without compensation through those centers or facilities under ORS 401.651 to 401.670.	O.R.S. § 401.355 (2003). O.R.S. § 401.667 (2003).
Pennsylvania	All duly enrolled emergency management volunteers, and such other volunteers as the agency shall by regulation qualify, who are not eligible to receive benefits under the Workmen's Compensation Laws shall be entitled, except during a state of war or period of armed conflict within the continental limits of the United States, to the following benefits relating to injuries sustained while actually engaged in emergency management activities and services or in or en route to and from emergency management tests, drills, exercises or operations authorized by the Pennsylvania Emergency Management Agency and carried out in accordance with rules and orders promulgated and adopted by the agency: (1) A sum of $20,000 for accidental injury directly causing or leading to death. (2) A sum not exceeding $15,000 for reimbursement for medical and hospital expenses associated with accidental injury. (3) Weekly payments of $200, not to exceed six months in duration, beginning on the eighth day of disability directly arising from accidental injury rendering the individual totally incapable of following his normal gainful pursuits.	35 Pa.C.S.A. § 7706 (2003).
Rhode Island	Any state employee who is a certified disaster volunteer of the American Red Cross deemed to be on leave under the Rhode Island Disaster Volunteer Leave Act shall not be deemed to be an employee of the state for purposes of workers compensation.	R.I. Gen. Laws § 28-49-3 (2006)

State	Description of Workers' Compensation Coverage	Citation
	In the case of a person whose services are voluntary or who performs charitable acts, any benefit received, in the form of monetary remuneration or otherwise, shall be reportable to the appropriate taxation authority but shall not be deemed to be wages earned under contract of hire for purposes of qualifying for workers' compensation benefits. All members of disaster response forces who are killed or sustain disability or injury while in training for or on disaster response duty shall be construed to be employees of the state and compensated in like manner as state employees are compensated under the provisions of chapters 29 -- 38 of this title.	R.I. Gen. Laws § 28-29-2 (2006) R.I. Gen. Laws § 28-31-12 (2006)
South Carolina	None. Except as provided under the compacts below. Under the Southern Regional Emergency Management Compact, each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state. Under the Interstate Civil Defense Disaster Compact, each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.	 S.C. Code Ann. § 25-9-420 (2005) S.C. Code Ann. § 25-9-20 (2005)
South Dakota	Any volunteer worker rendering services in or for any agency, department, institution, or instrumentality of the state or of any of its political subdivisions, including counties, townships, school districts, or municipalities, whose services have been duly recommended to the officer or governing body responsible for employment of personnel for the respective entity and duly appointed thereto by such officers or governing body, shall for purposes of this title (workers' be deemed an employee of the state or the political subdivision, as the case may be.	S.D. Codified Laws § 62-1-5.1 (2006)
Tennessee	Any person designated by a department or agency head as a participant in a volunteer program authorized by the department or agency head is considered a "state employee," however; volunteers are not eligible for workers' compensation benefits from the state.	Tenn. Code Ann. § 8-42-101 (2005)
Texas	Volunteers providing services for the state in a disaster or emergency response training are entitled to medical benefits if the person seeks medical treatment for the injury within 48 hours after discovery of injury.	Tex. Lab. Code Ann. § 501.026
Utah	A volunteer is considered a government employee for purpose of receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases.	Utah Code Ann. § 67-20-3 (2005)
Vermont	In declared emergencies civil defense or emergency management workers actually engaged in civil defense or emergency management duties will be considered as temporary state employees entitling them to workers' compensation. This section does not apply during any period in which the U.S. government may assume responsibility for compensation for civil defense or emergency management workers in the event of injury or death.	Vt. Stat. Ann. tit. 20, § 21 (2005)
Virginia	A wide range of volunteers, including volunteer lifesaving or rescue squad members, volunteer emergency medical technicians, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps are provided with workers compensation under limited circumstances. These volunteers are considered employees of the political subdivision or state institution of higher education in which the principal office their supervisory organization is located if the governing body of such political subdivision or state institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of workers compensation protection.	Va. Code Ann. § 65.2-101 (2005).
Washington	Compensation shall be furnished to an emergency worker [which includes registered	West's RCWA

State	Description of Workers' Compensation Coverage	Citation
	volunteers] either within or without the state for any injury arising out of and occurring in the course of his activities as an emergency worker, and for the death of any such worker if the injury proximately causes death, in those cases where the following conditions occur: (1) Where, at the time of the injury the emergency worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker. (2) Where, at the time of the injury the local organization for emergency management with which the emergency worker is registered is an approved local organization for emergency management. (3) Where the injury is proximately caused by his service as an emergency worker, either with or without negligence. (4) Where the injury is not caused by the intoxication of the injured emergency worker. (5) Where the injury is not intentionally self-inflicted.	38.52.260 (2005); Wash. Admin. Code 118-04-080 (2005).
West Virginia	Employers (usually the applicable political subdivision) can elect to cover volunteer rescue squads or volunteer organizations sponsored by government entities in furtherance of emergency medical services act.	W. Va. Code § 23-2-1
Wisconsin	All members of "emergency management units," including employees and volunteers, are covered under state workers' compensation laws.	Wis. Stat. §§ 102.07, 166.03, 166.215
Wyoming	Employee does not include volunteers unless they are specifically enumerated in the statute. Enumerated volunteers include emergency management agency personnel. Acceptance by the proper hiring authority of any volunteer and his services will constitute qualification of his skill and craft as set out in the wage determination scale, and the volunteer is entitled to the same rights and immunities as are provided by law for the employees of the state. In the event of injury, disability or death, such personnel shall be entitled to compensation at the same rates as provided by the Wyoming Worker's Compensation Act for like injuries, disabilities or death.	Wyo. Stat. Ann. § 27-14-102 (2005) & Wyo. Stat. Ann. § 27-14-108 (2005) Wyo. Stat. Ann. § 19-13-107 (2005)

APPENDIX F.

Physician Licensure Policies in ESAR-VHP Phase I-III States

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Alabama	Graduate of medical school accredited by the LCME or AOA or otherwise approved by the Board. Ala. Code § 34-24-70.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from LMCC. Licensure by endorsement must be completed within 10 years, unless the practitioner has completed the SPEX or ABMS.	
Alaska	Graduate of a legally chartered medical school accredited by the Ass'n of American Medical Colleges and the Council on Medical Education of the American Medical Association Alaska Stat. § 08.64.200	USMLE Steps 1-3; completion of all steps within seven years	1 year if graduated before Jan. 1, 1995 or 2 years if after Jan. 1, 1995	Physician must hold an active license from another state or passed an examination as specified by the board. FMGs: 3 years as evidenced by certificate of completion of the first year; and, if after Jan. 1, 1995 another certificate of completion for the second and third years, but only 1 year if prior to Jan. 1, 1995. Alaska Stat. § 08.64.250	Submit a list of negotiated settlements or judgments in claims or civil actions alleging medical malpractice, including an explanation of the basis for each claim or action.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Arizona	Graduate from an approved school of medicine or receive a medical education which the board deems to be of equivalent quality. A.R.S. § 32-1422	USMLE Steps 1-3; completion of all steps within 7 years	1 year	Physician must be licensed in another jurisdiction and must be either certified by the national board of medical examiners as having passed all three parts of the USMLE, a written exam equivalent to the USMLE, or those requirements satisfying the board, indicative of an equivalent standard. A.R.S. § 34-1426	Have the physical and mental capability to safely engage in the practice of medicine; a professional record that indicates having not committed any act which would constitute grounds for disciplinary action; and is currently not under investigation for unprofessional conduct.
Arkansas	Graduate of a recognize U.S. or Canadian medical school whose entrance requirements and course of instruction have been approved by the Council on Medical Education of the American Medical Association. Foreign Medical Graduates: Certification By ECFMG And Demonstrate In A Personal Interview The Ability To Read, Write And Speak English Fluently And Also Demonstrate Adequate Training And Ability Sufficient To Permit The Practice Of Medicine In Accordance With Accepted Medical Practice In The State Of Arkansas A.C.A. § 17-95-403	USMLE Steps 1-3	1 year	Physician must hold a license to practice medicine in another state where the requirements for licensure are equal to those established by the State of Arkansas. A.C.A. § 17-95-405	At least 21 years of age; of good moral character, and should not have been found guilty of acts constituting unprofessional conduct; for FMGs, at least 3 years internship or residency in an ACGME approved program in the United States.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
California	Graduate of a nationally accredited medical school, recognized by the US Dept. of Education. Cal. Bus. & Prof.Code § 2084 Foreign Medical Graduates: Certification from ECFMG and Completion of a resident course of medical instruction equivalent to that required for US medical graduates. Cal. Bus. & Prof.Code § 2102.	USMLE Steps 1-3	MD: 1 year (including 4 months general medicine). DO: 1 year AOA or ACGME Accredited GME (including at least 4 months general medicine, unless completed 1 year of GME before July 1, 1990).	Credentials considered for endorsement include certificate/diploma/licensure from LMCC.	
Colorado	Graduate of an approved medical college. Foreign Medical Graduates: Must provide verification of certification from ECFMG. C.R.S. 12-36-107 (b)	USMLE Steps 1-3	1 year	There is no automatic reciprocity; however, physicians must hold a valid licensed issued under the laws of any other state whose standards at the time of licensure was issued not substantially lower than those of the state of Colorado C.R.S. 12-36-107 (d)	At least 21 years of age

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Connecticut	Graduate of medical school accredited by the LCME or AOA. Foreign Medical Graduates: Completion of Fifth Pathway program from AMA or AOA accredited medical school or certification from ECFMG. Conn. Gen. Stat. § 20-10.	USMLE Steps 1-3; completion of all steps within 7 years.	2 years	Credentials considered for endorsement include certificate/diploma/licensure from NBME, LMCC, SBE, and NBOME. Conn. Gen. Stat. § 20-12.	
Delaware	Graduate from a medical college or school located in the U.S. or Canada that has been approved by the appropriate accrediting body of the American Medical Association or the American Osteopathic Association. Foreign medical graduates: legally incorporated medical college or school located in a country other than the U.S. or Canada, along with documentary proof of certification from the ECFMG. 24 Del. C. § 1720	USMLE Steps 1-3	3 years total post-graduate	Physician must be licensed, or otherwise legally qualified to practice medicine in another state that satisfies the requirements of the Board. 24 Del. C. § 1722	Have a working ability to read, write, speak, understand, and be understood in the English language; submission of a sworn or affirmed statement that (s)he has not committed a crime substantially related to the practice of medicine, and has not been professionally penalized for or convicted of drug addiction, or unprofessional conduct.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
District of Columbia	2 years pre-medical education. Obtained a DO or MD from a medical school accredited by the LCME, AOA or CACMS. D.C. Mun. Regs. Tit. 17, § 4602.2, 4602.3. Foreign Medical Graduates: Completion of the Fifth Pathway program, 3 years post-graduate medical training, and certification from ECFMG. D.C. Mun. Regs. Tit. 17, § 4603.	USMLE Steps 1-3; completion of all steps within 7 years.	2 years	Endorsement considered for any person licensed in another state with similar licensure requirements to D.C. D.C. Mun. Regs. Tit. 3, § 1205.07. Credentials considered for endorsement include certificate/diploma/licensure from NBME, LMCC, and NBOME.	
Florida	2 years pre-medical education. Graduate of a nationally accredited medical school, approved by the US Dept. of Education. Foreign medical graduates: graduate of an allopathic medical school registered with and certified by the World Health Organization or certification from the ECFMG. FSA § 458.311	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 1 year DO: 1 year of AOA approved rotating internship.	Credentials considered for endorsement of D.O. include certificate/diploma/licensure from SBE, NBOME & COMVEX.	Some candidates for licensure by endorsement must appear for an interview.
Georgia	Graduate from an approved medical college. Foreign medical graduates: graduation from a medical school approved by the World Health Organization. Must pass the ECFMG examination. Ga. Code Ann. § 43-34-27	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from LMCC & NBOME.	Some candidates for licensure by endorsement must appear for an interview.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Hawaii	Graduate of a medical school approved by the LCME. Foreign Medical graduates: Certificate from ECFMG, completion of Fifth Pathway Program. HI ST § 453-4	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 1 year DO: 1 year of AOA or ACGME accredited GME. Foreign Medical Graduates: 2 years	Credentials considered for endorsement of D.O. include certificate/diploma/licensure from NBOME.	
Idaho	Graduate from a medical school and successful postgraduate training program acceptable to the board. Foreign Medical Graduates: approved medical program and documentary proof of certification from the ECFMG. Idaho Code § 54-1810	USMLE Steps 1-3	1 year	Diplomats of the NBME, or the USMLE, or the National Board of Examiners for Osteopathic Physicians and Surgeons; or the physician holds a valid license in a state or territory of the U.S. or Canada, and demonstrates possession of the requisite qualifications to provide the same standard of health care as provided by licensed physicians in Idaho. Idaho Code § 54-1811	Submit to a fingerprint-based criminal history check.
Illinois	2 years pre-medical education. Graduate of medical school accredited by the LCME, AOA, or CACMS. Foreign Medical Graduates: Completion of the Fifth Pathway program; completion of all the formal requirements of the foreign medical school except internship and social service, and has submitted an application to an LCME accredited medical school, and completed nationally recognized medical student evaluation procedures. 225 ILCS 60/11.	USMLE Steps 1-3; completion of all steps within 7 years.	Entered GME pre-Jan. 1988, 1 yr.; Entered GME post-Jan. 1988, 2 yrs.	Credentials considered for endorsement include certificate/diploma/licensure from NBME, LMCC, and NBOME. 225 ILCS 60/19.	Selected candidates must appear for interviews. Temporary licenses, visiting professor and visiting physician permits available.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Indiana	Graduate from a medical school which was approved by the board as of the time the degree was conferred. Burns Ind. Code Ann. § 25-22.5-3-1 (2005) Foreign Medical Graduate: Submits evidence that prior to passing the examination, the applicant has successfully completed a minimum of at least two (2) years of postgraduate training in a hospital or an institution located in the U.S. or Canada which meets the standards approved by the nationally recognized medical or osteopathic accrediting bodies in the U.S., for the purpose of graduate training which is approved by the board. Burns Ind. Code Ann. § 25-22.5-3-2	USMLE Steps 1-3	1 year	Physician must have passed an examination for licensure in another state or territory of the U.S. or Canada, or given by a recognized certifying agency approved by the board; approval is at the board's discretion. Burns Ind. Code Ann. § 25-22.5-5-2	Must not have been convicted for a crime that has a direct bearing on his or her ability to practice competently.
Iowa	Graduate from a medical college, or present other evidence of equivalent medical education approved by board of medical examiners. Iowa Code § 148.3 Foreign Medical Graduates: hold a valid certificate issued by ECFMG, or have successfully completed a fifth pathway program established in accordance with AMA criteria.	USMLE Steps 1-3	1 year; but, after July 1, 2006, 2 years for foreign medical graduates	Board may issue a license to a physician who has passed a national standardized examination which the medical examiners approve in lieu of, or in conjunction with, other examinations the board may prescribe. Iowa Code § 148.3 (2)	
Kansas	Graduate of an accredited healing arts school or college and present proof of completion of postgraduate study as may be required by the board. Foreign Medical Graduates: approved medical program and documentary proof of certification from the ECFMG. K.S.A. § 65-2873	USMLE Steps 1-3	Completion of 3 years of postgraduate training	Physician must be duly licensed in a branch of the healing arts in some other state, or territory, and present such evidence that the standards maintained in that jurisdiction are at least equal to those maintained by Kansas. K.S.A. § 65-2833	Must have a reasonable ability to communicate in English.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Kentucky	Graduate from a medical or osteopathic school located within the U.S. and its territories, or Canada, and have completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation. Foreign Medical Graduates: approved medical program and documentary proof of certification from the ECFMG K.R.S. 311.571	USMLE Steps 1-3	1 year	Physician must have been endorsed in writing by his or her original licensing state as being licensed in good standing in that state, and equivalent satisfaction of requirements had he or she sought original licensure in the State of Kentucky. K.R.S. 311.571 (7)	Must be able to understandably speak, read, and write the English language.
Louisiana	Graduate from a medical college in good standing with the board. La R.S. § 37:1272 Qualification of applicants	USMLE Steps 1-3	Total of 3 years	Physician must hold a valid, unrestricted license, whether allopathic or osteopathic, in any other state provided the board is satisfied that the license is based upon an examination and other requirements substantially equivalent to the requirements of this Part. La. R.S. 37:1276	Must be 21 years of age; a citizen of the United States; and of good moral character.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Maine	Graduate from a medical school designated as accredited by the Liaison Committee on Medical Education. Foreign Medical Graduates: Graduate from an unaccredited medical school, be evaluated by and receive a permanent certificate from the ECFMG. 32 M.R.S. § 3271	USMLE Steps 1-3	1 year for applicants before Jan. 1, 1970; 2 years for applicants on or after Jan. 1, 1970, but before July 1, 2004; 3 years for applicants after July 1, 2004	Physician must be in good standing and have been examined and certified by the National Board of Medical Examiners, or examined and licensed by a board of another state as long as the examination is determined by the board to be equivalent to its own examination in Maine. 32 M.R.S. § 3275; see also 32 M.R.S. § 3271 (6)(A)(2)	
Maryland	Graduate from an accredited medical school or osteopathic school accredited by the AOA. Md. Code, Health Occupations § 14-307. Foreign Medical Graduates: Graduation from a medical school outside the US, Completion of the Fifth Pathway Program, certification from ECFMG.	USMLE Steps 1-3; completion of all steps within 10 years.	1 year (plus 1 year GME if candidate failed any part of an exam 3 times) Foreign Medical Graduates: 2 years	Credentials considered for endorsement include certificate/diploma/licensure from LMCC. Licensure by endorsement must be completed within 15 years of examination, unless the practitioner has completed the SPEX.	Must be 18 years old and of good moral character. Oral competency in English. Md. Code, Health Occupations § 14-307.
Massachusetts	2 years of pre-medical education. Graduate of a legally chartered medical school and obtained an MD or equivalent. Foreign Medical Graduates: Completion of the Fifth Pathway program; Certificate from ECFMG; or 2 years of pre-medical education in US or Canada and graduation from WHO authorized medical school. Mass. Gen. Laws ch. 112, § 2.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from NBME, LMCC, and NBOME. Mass. Gen. Laws ch. 112, § 2A.	Selected candidates must appear for interviews.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Michigan	Graduate from an LCME accredited medical education program.	USMLE Steps 1-3	MD: 2 years. DO: 1 year AOA approved GME.	Credentials considered for endorsement include certificate/diploma/licensure from SBE, LMCC, and NBOME. *See generally* Mich. Comp. Laws § 333.16186; *see also* § 333.17031	Must be 18 years old, of good moral character, competency in English language, no pending disciplinary actions or sanctions. Mich. Comp. Laws § 333.16174
Minnesota	Graduate of nationally accredited medical school in US or Canada. Minn. Stat. § 147.02. Foreign Medical Graduates: Completion of the Fifth Pathway program; Graduation from a medical school approved by the LCME or AOA or FCVS; and certificate from ECFMG; and working knowledge of English language. Minn. Stat. § 147.07.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from NBME, SBE, LMCC, and NBOME. Licensure by endorsement must be completed within 10 years of examination, unless the practitioner has a certification from the ABMS or has completed the SPEX. Minn. Stat. § 147.03.	All candidates must appear for interviews.
Mississippi	Graduate from a reputable medical college or college of osteopathic medicine that requires a four-year course of at least thirty-two (32) weeks for each session, or its equivalent. Miss. Code Ann. § 73-25-3 Foreign Medical Graduates: If the degree is from a foreign medical school, applicant must either (i) possess a valid certificate from the ECFMG or (ii) document successful completion of a Fifth Pathway program and be currently Board Certified by a Specialty Board recognized by the American Board of Medical Specialties or the American Osteopathic Association.	USMLE Steps 1-3	1 year; 3 years for foreign medical graduates	Physician must hold a license to practice from another state, provided the requirements in such state are equal to those required by the state board of medical licensure; or be a Diplomat of the NBME, or NBOME Miss. Code Ann. § 73-25-21	Must be of good moral character; 21 years of age;

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Missouri	High School and College graduation. Graduation from a medical school accredited by the LCME or AOA. Mo. Rev. Stat. § 334-031(1). Foreign Medical Graduates: Completion of the Fifth Pathway program. AMA, at 28-29.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from NBME, NBOME, and LMCC. Mo. Rev. Stat. § 334-031(2).	Selected candidates must appear for interviews.
Montana	Graduate of an approved medical school and has completed an approved postgraduate program of at least 2 years or, in the opinion of the board, has had experience or training that is at least the equivalent of a 2-year postgraduate program. Mont. Code Anno., § 37-3-305	USMLE Steps 1-3	2 years	Physician must either hold a certificate of record or examination issued by the national board of medical examiners, or hold a license under the laws of another state or territory of the U.S. whose licensing standards at the time of license were essentially equivalent to those of Montana. Mont. Code Anno., § 37-3-306	Must be of good moral character.
Nebraska	Graduate from an accredited medical school in the U.S. or Canada. Foreign Medical Graduates: Completion of 3 years of approved graduate medical education. Certification from ECFMG, completion of Fifth Pathway program and passage of ECFMG examination, or passage of US INS Visa Qualifying Examination. R.R.S. Neb. § 88-003	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from SBE and LMCC.	Must be 19 years old and of good moral character.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Nevada	Graduate from a medical school approved by the LCME. NRS § 630.160. Foreign medical graduates: MD and certificate from ECFMG. NRS § 630.195	USMLE Steps 1-3	MD: 3 years. DO: 3 years in AOA or ACGME accredited program (for grads after 1995).	Credentials considered for endorsement of D.O. include certificate/diploma/licensure from SBE and NBOME. Licensure by endorsement must be completed within 10 years of examination, unless the practitioner has a certification from the ABMS or has completed the SPEX or COMVEX.	Some candidates for licensure by endorsement must appear for an interview.
New Hampshire	Completion of 2 years of pre-medical education. Graduate from ACME accredited medical school. N.H. Rev. Stat. § 329:12. Foreign Medical Graduates: Graduate from a medical education program approved by the World Health Organization and certification from ECFMG.	USMLE Steps 1-3; completion of all steps within 7 years.	2 years	Credentials considered for endorsement include certificate/diploma/licensure from SBE and LMCC. Licensure by endorsement may require exam, interview, or proof of clinical competence.	Must be 21 years old and of good moral character.
New Jersey	High school graduate. NJSA § 45:9-6. Completion of 2 years of pre-medical education. Graduate from a medical school in the US, Canada, or foreign country which has been approved by the Board. NJSA § 45:9-8	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from LMCC with ABMS and SBE or ABMS with SBE.	Some candidates for licensure by endorsement must appear for an interview. Must be 21 years old and of good moral character. NJSA § 45:9-6.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
New Mexico	Graduate of an LCME accredited medical school in US or Canada. Foreign Medical Graduates: graduation from a board approved medical school outside US or Canada. NMSA § 61-6-11.	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 2 years. DO: 1 year.	Credentials considered for endorsement of M.D. include certificate/diploma/licensure from FLEX (pre-1974), SBE, and LMCC. Credentials considered for endorsement of D.O. include certificate/diploma/licensure from SBE (pre-FLEX) and NBOME.	Some candidates for licensure by endorsement must appear for an interview.
New York	Completion of 2 years of pre-medical education. MD or DO from an accredited medical education program. NY Comp. Codes R. & Regs. tit. 8, § 60.1	USMLE Steps 1-3	1 year	Credentials considered for endorsement include certificate/diploma/licensure from LMCC (with valid Canadian Provincial license) and ABMS foreign license.	Must be 21 years of age and of good moral character. NY Educ. Law. § 6524.
North Carolina	Graduation from medical college accredited by the LCME or AOA. NCGSA § 90-9.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from ABMS, SBE, FLEX, and COMLEX. Licensure by endorsement must be completed within 10 years of examination, unless the practitioner has the required training, has completed the SPEX or has certification from the AMA PRA.	Some candidates for licensure by endorsement must appear for an interview. Criminal background check. NCGSA § 90-11.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Ohio	Graduation from LCME or AOA accredited medical school. Foreign Medical Graduates: Completion of the Fifth Pathway program; Certificate from ECFMG. Ohio Rev. Code § 4731.091 (Anderson, 2004).	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from NBME and LMCC, with professional experience in US or abroad. AMA, at 11-13.	Proficiency in English language. Ohio Rev. Code § 4731.142 (Anderson, 2004).
Oklahoma	Graduate from a medical school in US or Canada that is approved by the board. 59 Okla. Stat. Ann. § 493.1. Foreign Medical Graduates: graduation from a medical program with curriculum substantially similar to the University of Oklahoma. Certificate from ECFMG. 63 Okla. Stat. Ann. § 493.2.	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 1 year. DO: 1 year of AOA approved rotating internship.	Credentials considered for endorsement include certificate/diploma/licensure from LMCC or NBOME.	Some candidates for licensure by endorsement must appear for an interview. Must be of good moral character. 59 Okla. Stat. Ann. § 492.1. No pending disciplinary actions and criminal background check. 59 Okla. Stat. Ann. § 493.1

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Oregon	Graduate from an approved school of medicine. ORS § 677.100	USMLE Steps 1-3; completion of all steps within 7 years.	1 year if graduate from an approved school of medicine. 3 years if graduate from unapproved school of medicine. ORS § 677.100	Credentials considered for endorsement include certificate/diploma/licensure from LMCC, and NBOME. Licensure by endorsement must be completed within 7 years of examination, unless the practitioner has completed the SPEX. The SPX requirement may be waived if the applicant was certified by an ABMS board within 10 years or completed an accredited 1-year residency or accredited clinical fellowship.	Some candidates for licensure by endorsement must appear for an interview. Must be of good moral character. ORS § 677.100
Pennsylvania	Graduate of an accredited medical college or graduate from an unaccredited medical college, three years of residency training and certification from ECFMG. 63 P.S. § 422.29.	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 2 years (1 year if GME before July 1987). DO: 1 year of AOA approved rotating internship.	Credentials considered for endorsement include certificate/diploma/licensure from SBE, LMCC, and NBOME.	Must be of legal age and of good moral character. Must not be addicted to alcohol, narcotic drugs or other habit forming substances. Criminal background check. 63 P.S. § 422.22.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Rhode Island	Graduate from a medical school or school of osteopathic medicine approved by the board and in good standing, shall meet post graduate training requirements and any other requirements set forth by the board. Foreign Medical Graduates: certification by the Educational Commission for Foreign Medical Graduates (ECFMG). R.I. Gen. Laws § 5-37-2	USMLE Steps 1-3 within 7 years.	1 year supervised clinical training; 3 years for foreign medical graduates	If an applicant is licensed and in good standing in another state, the Board will consider licensing an applicant pending the receipt of the required Federation of State Medical Boards Federation Credentials Verification Service (FCVS) form.	
South Carolina	Graduate from an approved medical college and present evidence of preliminary and medical education as may be prescribed by the board or as defined by law. S.C. Code Ann. § 40-47-90 Foreign Medical Graduates: must (1) document successful completion of a Fifth Pathway program or (2) furnish copies of current ECFMG certificate and documentation of all post-graduate training completed in the United States.	USMLE Steps 1-3	1 year for U.S. or Canadian graduates; 3 years for foreign medical graduates	Physician must hold a license to practice medicine in another state, should not have had his license revoked, suspended or restricted in this or another state, and hold certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association. S.C. Code Ann. § 40-47-155	Must not have any disciplinary matters pending in South Caroline or any other state; undergo an interview with a member of the Board.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
South Dakota	Graduates must present evidence of having graduated and received a diploma from a medical or osteopathic college approved by the board. Foreign Medical Graduates may also be required to demonstrate further proof of competency. S.D. Codified Laws § 36-4-11	USMLE Steps 1-3 within 7 years	1 year	Must hold a currently valid license or certificate, and have fulfilled those requirements that were not less than those of South Dakota at the time the license is presented for registration. S.D. Codified Laws § 36-4-19	Must be at least 18 years of age; and of good moral character.
Tennessee	Graduate from an approved medical program. Foreign Medical Graduates: certificate from a school approved to be of equivalent standards to Tennessee and a copy of a permanent ECFMG certificate. Tenn. Code Ann. § 63-6-201; see also Tenn. Code Ann. §63-6-207	USMLE Steps 1-3	1 year for U.S. or Canadian graduates; 3 years for foreign medical graduates	Physician must hold a license from another state and will be evaluated, at the discretion of the board, as to his or her credentials, qualifications and reputation within the medical community. Tenn. Code Ann. § 63-6-211	Good moral character;
Texas	Undergraduate degree of BA or BS, pre-medical education. Graduation from LCME or AOA accredited medical school. Tex. Occ. Code § 155.003. Foreign Medical Graduates: Entire pre-medical education of country where medical degree was obtained; completion of the Fifth Pathway Program; Certificate from ECFMG; holds valid medical license in country of education; able to communicate in English. Tex. Occ. Code §§ 155.004, 155.005.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year; 3 years for foreign medical graduates.	Credentials considered for endorsement include certificate/diploma/licensure from NBME, LMCC, COMLEX, and NBOME. Tex. Occ. Code § 155.0511. Licensure by endorsement must be completed within 10 years, unless the practitioner has completed the SPEX. AMA, at 11-13.	Selected candidates must appear for interviews.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Utah	Graduate from an LCME accredited medical school or college or a medical school or college outside the U.S., but have met criteria for LCME accreditation. Foreign Medical Graduates: attend a school that met criteria for LCME accreditation and hold a current ECFMG certificate. Utah Code Ann. § 58-67-302	USMLE Steps 1-3	1 year in an ACGME approved program; accepted and participating in progressive resident training in an ACGME approved program in Utah, in the applicant's second or third year of post-graduate training	Physician must be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the U.S. and have been actively engaged in the practice of medicine in that jurisdiction for not less than 6,000 hours during the give years immediately preceding the date of application for licensure in Utah. Utah Code Ann. § 58-67-302 (2) Utah Code Ann. § 58-67-305 (7)	Must submit a record of professional liability claims; be of good moral character; be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and not have any pending action against the applicant's license.
Vermont	Graduate of a legally chartered college or university authorized to confer the degrees in medicine and surgery. Foreign Medical Graduates: Credentials must be passed upon and approved by the ECFMG. 26 V.S.A. § 1391	USMLE Steps 1-3	1 year for U.S. graduates; 3 years for foreign medical graduates	Physician must hold a license issued to him or her in a jurisdiction whose requirements for registration are deemed by the board as equivalent to those of Vermont. 26 V.S.A. § 1395	Must be of good moral character; and competence in being able to communicate in reading, writing and speaking the English language.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Virginia	Graduate from a medical school approved by the Board. Va. Code § 54.1-2930. Foreign medical graduates: qualified for and completed supervised clinical training program approved by AMA; certification that all graduation requirements of the school have been met; medical school is approved by the Board. Va. Code. § 54.1-2933	USMLE Steps 1-3; completion of all steps within 7 years.	1 year for U.S. graduates; 3 years for foreign medical graduates	Credentials considered for endorsement include certificate/diploma/licensure from SBE with ABMS (Pre-1970) or LMCC.	Applicants for licensure by endorsement must sit for an interview. Must be 18 years old and of good moral character. Va. Code § 54.1-2930.
Washington	Graduate of an approved medical school. RCWA § 18.71.050 Foreign medical graduates: Passage of ECFMG examination, graduation from medical school, proficiency in English. RCWA § 18.71.051.	USMLE Steps 1-3; completion of all steps within 7 years.	MD: 2 years (1 year if medical school completed before July 28, 1985). DO: 1 year of AOA approved or ACGME accredited GME.	Credentials considered for endorsement include certificate/diploma/licensure from SBE (pre-FLEX), NBOME or LMCC (post-1969).	Must be of good moral character and physically/mentally able to safely practice medicine. RCWA § 18.71.050
West Virginia	MD or equivalent from LCME accredited medical school or other school approved by the Board. Foreign Medical Graduates: ability to communicate in English; ECFMG certificate or passage of the ECFMG examination and is licensed in another jurisdiction, has practiced for 5 years, and has not been subject to disciplinary action. W. Va. Code § 30-3-10.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year; 2 years for foreign medical graduates.	Credentials considered for endorsement include certificate/diploma/licensure from NBME, NBOME and SBE (pre-FLEX).	Selected candidates must appear for interviews.
Wisconsin	Graduate of medical or osteopathic college approved by the board. Foreign Medical Graduates: Completion of the Fifth Pathway program; passage of ECFMG examination. Wis. Stat. § 448.05.	USMLE Steps 1-3; completion of all steps within 7 years.	1 year	Credentials considered for endorsement include certificate/diploma/licensure from NBME, SBE, LMCC, and NBOME. Wis. Stat. § 448.05.	Selected candidates must appear for interviews.

State	Medical Education and Citations	Examination	Residency Training	Endorsement	Additional Requirements
Wyoming	Graduate from a school of medicine accredited by the LCME, a school of osteopathy accredited by the AOA, or a Canadian accredited school of medicine. Wyo. Stat. § 33-26-303	Steps 1-3 of the USMLE, the FLEX, a board approved, state constructed licensing examination, the exam by licentiate of the medical council of Canada, or the exam developed by the national board of osteopathic medical examiners.	1 year in an ACGME, AOA, or RCPSC accredited program; if applicant graduated from a school not accredited by the ACGME, AOA, or RCPSC, at least 2 years of medical education at the school from which (s)he graduated, and at least 2 years of post-graduate training in an ACGME, AOA, or RCPSC accredited program		Must complete a personal interview consisting of inquiry and oral response to medical knowledge, personal and professional history and intentions for practicing medicine in this state.

Abbreviations for Table: ABMS: Certification from a member Board of the American Board of Specialties; **CACMS**: Committee on the Accreditation of Canadian Medical Schools; **FCVS**: Federation of State Medical Boards' Federation Credentials Verification Service or its successor; **LMCC**: certification by the Licentiate of the Medical Council of Canada; **NBOME**: certificate from the National Board of Osteopathic Medical Examiners; **NMBE**: certificate of the National Board of Medical Examiners; **SBE**: state board examination; **SPEX**: Special Purpose Examination; **WHO**: World Health Organization

References: American Medical Association, State Medical Licensure Requirements and Statistics (2005).

APPENDIX G.

Nursing Licensing Requirements in ESAR-VHP Phase I-III States

State	Education	Examination	Endorsement	Additional Requirements
Alabama	High School and successful completion of graduation requirements of a nursing program in Alabama or another state that substantially meets the same educational criteria as in Alabama.	NCLEX	Available if licensed in another state and meets the requirements of Alabama at the time of his/her graduation.	
Alaska	Successful completion of a nursing program or another state that meets the minimum requirements of the board in Alaska, or accredited by the National League for Nursing at the time of graduation. Alaska Stat. § 08.68.170	NCLEX	Available if licensed in another state and meets the qualification for licensing in Alaska. Alaska Stat. § 08.68.200	
Arizona	Satisfactory completion of curriculum in an approved nursing program. A.R.S. § 32-1632	NCLEX	Board may issue license if applicant has been duly licensed or registered in another state and meets the qualifications for licensing under Arizona. A.R.S. § 32-1634	If convicted of one or more felonies, has received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing an application.
Arkansas	Completion of an approved high school course of study or a required education program. A.C.A. § 17-87-301 (a)	NCLEX	Board may issue if applicant was duly licensed under the laws of another state and meets the qualifications in Arkansas at the time of graduation. A.C.A. § 17-87-301 (b)(2)	Good moral character
California	Successful completion of an educational program meeting California requirements.	NCLEX	Available if current and active license in another state or Canada, have completed an educational program meeting all California requirements, and passed NCLEX or SBTPE.	

State	Education	Examination	Endorsement	Additional Requirements
Colorado	Completion of an approved high school course of study or a required education program. C.R.S. 12-38-111 (1)	NCLEX	Board may issue if applicant was duly licensed under the laws of another state and meets the qualifications in Colorado at the time of graduation. C.R.S. 12-38-111 (2)	May be required to submit forms evidencing non-addiction to any controlled substance or that applicant is not a regular user of the same without a prescription therefore.
Connecticut	Degree from nursing program approved by the state	NCLEX	Available if licensed in another state. Temporary permit available while application is pending.	
Delaware	Graduate of and holds a certificate from a State Board of Nursing approved nursing education program. 24 Del. C. § 1910	NCLEX	Applicant must be duly licensed under a different state and meet the qualifications for nurses in Delaware. 24 Del. C. § 1912	Demonstrate competence in English related to nursing; evidence of an earned high school diploma; have not committed any acts which are grounds for disciplinary action as set forth, or if found to have done so, demonstrate sufficient restitution has been made.

State	Education	Examination	Endorsement	Additional Requirements
District of Columbia	Successful completion of nursing education program in U.S. approved by Board of Nursing.	NCLEX Foreign Nursing graduates must successfully complete the Commission on Graduates of Foreign Nursing Schools (CGFNS) examination.	Available if licensed in another jurisdiction and achieved a passing score on the NCLEX-RN. 17 DCMR § 5404.4.	Continuing Education requirement; Students, foreign graduates and new applicants (while pending), nurses under investigation may engage in supervised practice of nursing
Florida	Completion of the requirements for graduation from an approved program, or its equivalent as determined by the board, for the preparation of registered nurses and completion of three (3) hour HIV/AIDS course, one (1) hour Domestic Violence course, and two (2) hours of medical errors course prior to licensure.	NCLEX	Holds a valid license from another state with requirements substantially similar to or more stringent than those in Florida; active practice for 2 of 3 preceding years in another state. Applicants who are relocated due to a spouse's military orders and are licensed in another NLC state are deemed to meet the educational and experience requirements for licensure by endorsement.	
Georgia	Graduation from a nursing education program approved by the board.	NCLEX, within 3 years of graduation of nursing program.	Current licensure in any other licensing jurisdiction, Active practice for a defined period of time within the 4 years preceding the application. May practice under a temporary permit while the license application is pending.	
Hawaii	Graduation from a RN program in the US. If a foreign graduate, the Board will assess the applicant's transcript to see if they are qualified.	NCLEX	Unencumbered license in another state, territory or foreign country. Must meet the Hawaii licensure requirements at the time of graduation from nursing program. May practice under a temporary permit while the license application is pending.	

State	Education	Examination	Endorsement	Additional Requirements
Idaho	Successful completion of an approved eleven month program or its equivalent and the examination administered by the board. Idaho Code § 54-1408	NCLEX	Must have a professional or registered nurse license in good standing, without restriction or limitation, issued upon successful similar examination, approved by the board, conducted in another state, territory or foreign country; and be of sound physical and mental health. Idaho Code § 54-1408 (b)	Must be of sufficient, sound physical and mental health.
Illinois	Degree from program approved by the state	NCLEX Must pass within 3 years of application.	Must show proof of education in approved nursing education program, passage of examination. 225 ILCS 65/10-30(c). Foreign educated nurses must be licensed in another jurisdiction and passed the CGFNS (or 2 years of licensed practice in another state and the NCLEX) and the TOEFL	Department of Professional Regulation may grant temporary license while application is pending
Indiana	Completion of the requirements of a state accredited program who have a high school diploma or equivalent, or the prescribed requirements of a nursing program approved by the board. Burns Ind. Code Ann. § 25-23-1-11	NCLEX	Currently licensed in a Canadian province or another state and fulfills the requirements for Indiana.	Must not have been convicted of a crime that has a direct bearing on the ability to practice competently; or committed an act that would constitute a ground for disciplinary action.

State	Education	Examination	Endorsement	Additional Requirements
Iowa	Graduate of an accredited high school, pass an examination prescribed by the board, and complete a study approved by the board. Iowa Code § 152.7	NCLEX	A license possessed by an applicant from a state which has not adopted the nurse licensure compact, or the advanced practice registered nurse compact, shall be recognized by the board under conditions specified which indicate that the licensee meets all the qualifications required. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing. Iowa Code § 152.8	
Kansas	Graduated from an accredited high school, and completed program requirements of an approved school of nursing. K.S.A. § 65-1115	NCLEX	Boar may issue a license to an applicant duly licensed by examination under the laws of another state or demonstrates fulfillment of qualifications required in Kansas. K.S.A. § 65-1115 (c)(2)	
Kentucky	Graduation from an approved nursing program.	NCLEX	Must either (1) be licensed less than 5 years from the date the application for a Kentucky nursing license is received at KBN., or (2) actively engaged in nursing practice for at least 500 hours during the 5 years preceding the date the application for a Kentucky nursing license is received at KBN; if not, (3) applicant must have been active for at least 100 hours. If none of the aforementioned conditions apply, applicant must have completed a refresher course, approved by the board, that was earned within two years of the date the application was received, or complete 120 contact hours of continuing education, earned within one year of the date the application was received.	

State	Education	Examination	Endorsement	Additional Requirements
Louisiana	Successful completion of a nursing education program, an examination to the satisfaction of the board, and any course work as required by the board. La. R.S. 37:920	NCLEX	Duly licensed as a registered nurse under the laws of another state, territory, or country; and has passed an examination for licensure and met, upon graduation, all other qualifications for licensure as a registered nurse in this state at the time he was initially licensed as a registered nurse; and hold a current license issued directly from the jurisdiction of her last employment. La. R.S. 37:920 (B)(1)	Must be of good moral character; not have committed any acts or omissions which would constitute grounds for disciplinary action or, if so, must demonstrate sufficient restitution, rehabilitations, and education; proficiency in English if a foreign medical graduate.
Maine	Successful completion of a course of study in an approved program and holds a degree, diploma or certificate, and pass a written examination. Qualifications 32 M.R.S. § 2201(3); examination pursuant to §2202.	NCLEX	Has graduated from an educational program approved by the official approving authority; has been duly licensed by examination, provided that the examination is considered by the board to be equivalent in all essentials to Maine's examination and provided that the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license; has passed the National Council Licensure Examination for registered nurses; and if licensed in the other jurisdiction by passing an examination in a language other than English, has either passed the Test of English as a Foreign Language or by passing a test given in English. 32 M.R.S. § 2205-A (2)	

State	Education	Examination	Endorsement	Additional Requirements
Maryland	Completion of graduation requirements of nursing program approved by the board or with substantially similar requirements to those of the board.	NCLEX	Waiver of licensure requirements for licensees in other states/countries when the individual's education met the Maryland requirements and the individual passed the relevant examination.	Waiver of licensure requirements for RN licensed by a party state to the Multistate Licensure Compact.
Massachusetts	School for nurses approved by board. Mass Gen Laws ch. 112 §74	NCLEX	May register for a license and get reciprocity if licensed in another state with the same or substantially similar nursing standards. Mass. Gen. Laws ch. 112 § 76. If licensed in another jurisdiction and seeking a temporary registration, must show proof of licensure and graduation from approved school of nursing and practice under supervision of fully licensed registered nurse. Mass. Gen. Laws ch. 112 § 76A	
Minnesota	Approved education program in US or Canada. Foreign graduates must prove successful completion of program which taught skills equivalent to an approved US/Canada program and passage of examination in spoken/written English.	NCLEX	Licensure in another state and has other qualifications equivalent to Minnesota's requirements. Reciprocity for valid license in Iowa, North Dakota, South Dakota, and Wisconsin if licensure standards are substantially the same, no adverse action against license, and no refusal of license in Minnesota. Nurses admitted under this provision are subject to the laws of Minnesota while practicing there. Minn. Stat. § 148.211.	
Mississippi	Completion of a nursing program approved by the board, and successful completion of a written examination. Miss. Code Ann. § 73-15-19	NCLEX	Board may issue to an applicant duly licensed under the laws of another state or if (s)he meets the qualifications required in the state of Mississippi and previously achieved a passing score on the examination required by the other state at his or her time of graduation. Miss. Code Ann. § 73-15-19 (3)	Evidence of competence in English related to nursing, provided the first language is not English.

State	Education	Examination	Endorsement	Additional Requirements
Michigan	Graduation from an approved nursing program in the US or Canada (taught in English).	NCLEX	An applicant who is a graduate of a nurse education program that is located outside of the United States, has passed the NCLEX examination, and has maintained an active license with no disciplinary sanctions for at least 5 years immediately preceding the application for a Michigan license is not required to obtain CGFNS certification for licensure by endorsement. Otherwise, CGFNS certification is required for licensure by endorsement.	Temporary licenses available for individuals licensed in Canada.
Missouri	Professional degree from an approved or accredited nursing program and have a high school diploma or equivalent. Foreign applicants: must show evidence of proficiency in English. Mo. Rev. Stat. § 335.046(1)	NCLEX	Licensed in another jurisdiction and meets the requirements for licensure in Missouri. Mo. Rev. Stat. § 335.051(1). Temporary permit available while application is pending. Mo. Rev. Stat. § 335.051(3).	
Montana	Successful completion of an approved high school course of study, the basic professional curriculum of an approved school of nursing, and a licensing exam. Mont. Code Anno., § 37-8-405; examination under § 37-8-406	NCLEX	Successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction; and has completed the basic professional curriculum in an approved school of nursing verified by official transcript.	
Nebraska	Graduation from a nursing program approved by the Board.	NCLEX	Graduation from an approved nursing program within previous 2 years or practiced nursing for at least 500 hours in previous 5 years or completed a review course of study within previous five years; Previously licensed in another state/jurisdiction. Temporary permit available while application is pending.	Under the NLC, nurses licensed in party jurisdictions may practice for 30 days without a license.
Nevada	Diploma from an accredited school of nursing. NRS 632.140	NCLEX	Current licensure in another jurisdiction and passage of the relevant examination. Examination testing proficiency in English, if English is not the language of the jurisdiction where previously licensed. NRS 632.160	

State	Education	Examination	Endorsement	Additional Requirements
New Hampshire	Graduation from a board-approved nursing education program; or demonstrate comparable nursing educational preparation recognized by the board; or have graduated from a foreign nursing program and successfully completed the CGFNS examination or a curriculum evaluation; or have graduated from a recognized Canadian nursing education program; or be a candidate who has applied for licensure in New Hampshire and who has practiced successfully for at least 2 years in the United States. N.H. Stat. Tit. 30, § 326-B:6.	Foreign nurses must take the NCLEX or CGFNS Examination.	Active license in another jurisdiction and meet the clinical competence requirements in NH.	Criminal background check.
New Jersey	High School graduation and diploma from an accredited nursing school. NJSA 45:11-26	NCLEX	Licensure by examination in another jurisdiction and meets qualifications similar to those required for individuals licensed by examination in NJ. NJSA 45:11-26	No criminal complaints against application regarding narcotic drugs. NJSA 45:11-26
New Mexico	Graduation from an approved nursing program. NMSA § 61-3-13	NCLEX	Available if licensed in another state and meets qualifications required in NV. NMSA § 61-3-14. Waiver of licensure requirements available for individuals licensed in jurisdictions that are a party to the NLC.	Criminal Background Check. NMSA § 61-3-13
New York	Diploma/degree in professional nursing. NY Stat. Educ. § 6905 Foreign educated nurses must complete a general nursing course of at least two academic years in a country outside the United States that is satisfactory to the department and that the licensing authority or appropriate governmental agency of said country certifies to the department as being preparation for practice as a registered professional nurse. NY Comp. R. Regs. Prof. Educ. § 64.1	NCLEX	Scores from the State Board Test Pool (SBTP) examination and NCLEX may be accepted for licensure. The licensing authority in the jurisdiction in which the applicant took the examination must submit verification of acceptable scores on these examinations directly to the Office of the Professions.	Must be of good moral character and 18 years of age. NY Stat. Educ. § 6905

State	Education	Examination	Endorsement	Additional Requirements
North Carolina	Graduation from a course of nursing study approved by the Board. NCGSA § 90-171.29.	NCLEX	Licensure in another jurisdiction when the jurisdiction's licensure requirements are substantially similar to those of NC. NCGSA § 90-171.32	Mentally and physically competent to practice nursing. NCGSA § 90-171.29.
Ohio	Completion of the requirements of a nursing education program approved by the state board of nursing or another jurisdiction's board of nursing. Ohio Rev. Code. § 4723.09(A)(1) (Anderson 2004).	NCLEX	License in good standing in another jurisdiction; education met Ohio requirements, successful passage of examination. Ohio Rev. Code. § 4723.09(B) (Anderson 2004). Temporary permit available for 180 days while licensure application is pending. Id.	Nurse must not have committed any act that is grounds for disciplinary action, and if the applicant has, must show that he has been rehabilitated. Ohio Rev. Code. § 4723.09(A)(2)(c) (Anderson 2004). Criminal Records checks for certain felony convictions
Oklahoma	Diploma from a school of nursing approved by the Board. 59 Okl.St.Ann. § 567.5	NCLEX	Licensure in another jurisdiction and meets the licensure requirements for OK. 59 Okl.St.Ann. § 567.5	Criminal background check. 59 Okl.St.Ann. § 567.5
Oregon	Graduation from a registered nursing program accredited by the Board or accredited by the Board of another state. Graduation from a nursing program in another country which has an education equivalent to accredited programs in the US. ORS § 678.040.	NCLEX	Completion of OR nursing education requirements and passage of relevant examination. ORS § 678.050.	

State	Education	Examination	Endorsement	Additional Requirements
Pennsylvania	High School diploma. 63 P.S. § 216. Graduation from an approved nursing program. 63 P.S. § 615.	NCLEX	Graduation from an approved nursing program in US or Canada, and has passed the NCLEX. Foreign graduates must have been educated in a nursing program which is deemed to be equivalent to PA requirements. 49 Pa. Code. 21.28. Temporary licenses available for individuals licensed in another jurisdiction. 63 P.S. § 214.1.	Must be of good moral character. Criminal background check. 63 P.S. § 216.
Rhode Island	Successful completion of an approved high school course of study and an approved professional nursing education program. R.I. Gen. Laws § 5-34-10	NCLEX	The licensing agency in each state in which the applicant holds or has held a registration or license must submit to the Board a statement confirming the applicant to be or have been in good standing.	Must be of good moral character; hold a high school diploma
South Carolina	Successful completion of an approved school of nursing program. S.C. Code Ann. § 40-33-32	NCLEX	Successful completion of requirements of a program that provides an education equivalent to that of South Carolina at the time of the applicant's initial licensure in the other jurisdiction, and any additional requirements set forth by the board. S.C. Code Ann. § 40-33-35	Have not committed any acts that would constitute grounds for disciplinary action.
South Dakota	Graduate of an approved four-year high school course of study or equivalent, and an approved nursing program. S.D. Codified Laws § 36-9-30	NCLEX	Board may issue a license by endorsement upon demonstration of an applicant having met the qualifications in South Dakota at the time of original licensure; if the nurse has not been employed for more than 6 years, the board may establish reentry standards, as deemed necessary, to determine compliance with state requirements. S.D. Codified Laws § 36-9-32	

State	Education	Examination	Endorsement	Additional Requirements
Tennessee	Holds a diploma from a four-year accredited high school, or equivalent, and successful completion of a course of study in an approved school of nursing. Tenn. Code Ann. § 63-7-104	NCLEX	With the exception of a person licensed during an initial waiver period in another U.S., jurisdiction, the applicant must be a graduate of an approved school of professional nursing and licensed by written examination in the other jurisdiction.	Must be of good physical and mental health; hold a diploma from a four-year accredited high school or the equivalent thereof, as determined by the board.
Texas	Completion of approved program of professional nursing. Tex. Occ. Code. § 301.252(a) (Vernon 2004).	NCLEX If failed, the applicant may retake exam. If the applicant fails 2+ times, the board may require additional education or deny opportunity to retake exam. Tex. Occ. Code. § 301.255 (Vernon 2004).	Reciprocity available pursuant to the Nurse Licensure Compact. Tex. Occ. Code. § 304.001, et seq. (Vernon 2004).	Criminal background check. Tex. Occ. Code. § 301.2511 (Vernon 2004). Temporary permit available for supervised practice of nursing while license application is pending. Tex. Occ. Code. § 301.258(a) (Vernon 2004).
Utah	Hold a high school diploma, or equivalent, and have completed an approved nursing program, along with having passed the examinations as required by the board. Utah Code Ann. § 58-31b-302	NCLEX	In accordance with Section 58-1-302, an individual who moves from a Nurse Licensure Compact party state does not need to hold a current license, but the former home state license must have been in good standing at the time of expiration; also, an individual who has not been licensed or practicing nursing for three years or more is required to retake the licensure examination to demonstrate good standing within the profession. *See also* Nurse Licensure Compact Utah Code Ann. § 58-31c-101	Must hold a high school diploma; be of sound physical and mental health; submit to a fingerprint background check and criminal background check.

State	Education	Examination	Endorsement	Additional Requirements
Vermont	Applicant shall have completed all requirements in an approved nursing education program. 26 V.S.A. § 1576	NCLEX	The board may issue a license to an applicant who is duly licensed by examination in another state of (s)he meets the qualifications required in Vermont and has practiced nursing within the past five years. 26 V.S.A. § 1576 (c)	
Virginia	High School Graduate. Graduation from an approved nursing program. Va. Code Ann. § 54.1-3017 Foreign graduates are required to complete the CGFNS examination. Va. Code Ann. § 54.1-3017	NCLEX, CRNE, CGFNS	Licensure in another jurisdiction and meets the VA requirements for licensure. Unrestricted license in Canada and passed the CRNE. Va. Code Ann. § 54,1-3018. Waiver of licensure requirements available for nurses licenses in jurisdictions that are a party to the NLC. Va. Code Ann. § 54.1-3030, et seq.	Has not committed any acts which are grounds for disciplinary action. Va. Code Ann. § 54.1-3017
Washington	Completion of an approved program of nursing. RCWA § 18.79.160	NCLEX	Licensure in another jurisdiction and meets the requirements for licensure in WA. Nurses licensed outside the US must meet the requirements for licensure in WA and pass relevant examination. RCWA § 18.79.180.	
West Virginia	Completion of 4 year H.S. program, accredited program of professional nursing and holds a diploma of a school accredited by the board. W. Va. Code § 30-7-6 (2004).	NCLEX Temporary permit available while examination results are pending, once schooling is complete. W. Va. Code § 30-7-6 (2004).	Licensure in another state as a registered professional nurse, if the nurse meets the applicant meets the requirements of a registered professional nurse at the time of graduation. May get a temporary permit while application is pending. W. Va. Code. § 30-7-6 (2004).	

State	Education	Examination	Endorsement	Additional Requirements
Wisconsin	H.S. graduate and holds diploma from accredited nursing school. Wis. Stat. § 441.04 (2003). Once graduated from accredited school but not licensed, may apply for temporary permit, which may be renewed once. Wis. Stat. § 441.08 (2004).	NCLEX	Must hold a license in another state, credentials of general, professional and educational requirements are comparable to Wisconsin, and be competent to practice based on employment record. Wis. Stat. § 441.06(1) (2003). Nurse Licensure Compact. Wis. Stat. § 441.50, et seq. (2003).	No criminal convictions or arrests. Wis. Stat. § 441.04 (2003).
Wyoming	Successful completion of a nursing education program. Wyo. Stat. § 33-21-127	NCLEX	Completion of a nursing education program recognized by the board which prepares for the level of licensure being sought. Wyo. Stat. § 33-21-127 (b)	Have committed no acts that would constitute grounds for disciplinary action; submit to a background check.

APPENDIX H.

State Reciprocity Requirements for Psychologist Licensure in ESAR-VHP Phase I-III States[311]

State	Reciprocity or CPQ	Additional Comments
Alabama	No	
Alaska	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation.
Arizona	Yes	Accepts CPQ. Board has voted to accept ABPP diplomats & National Register listed psychologists meeting licensure requirements.
Arkansas	Yes	Member ASPPB Agreement of Reciprocity, applicant must pass oral exam. Accepts CPQ.
California	Yes	Accepts CPQ; CPQ holders must take California jurisprudence and professional ethics exam and show evidence of coursework in human sexuality (10 hours), child abuse assessment and CA reporting (7 hours), and if applicant started grad school after 9/1/85, a course in alcohol/substance dependency.
Colorado	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation. Licensure by endorsement possible for individual licensed in another jurisdiction with education, experience and exam requirements similar to those of Colorado
Connecticut	Yes	Accepts CPQ; CPQ holder must pass CT jurisprudence exam.
Delaware	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
District of Columbia	Yes	Accepts CPQ; applicant must pass jurisprudence exam. Psychologists may be licensed without examination if they are licensed in another state whose requirements are substantially equivalent to DC's requirements.
Florida	No	
Georgia	Yes	Accepts CPQ.
Hawaii	Yes	Accepts CPQ.
Idaho	Yes	Accepts CPQ.
Illinois	No	Licensure by endorsement possible for an individual licensed in another jurisdiction if he/she meets all Illinois requirements
Indiana	No	
Iowa	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Kansas	No	May license by endorsement if state in which psychologist is licensed has requirements substantially equivalent to Kansas requirements.
Kentucky	Yes	Accepts CPQ; Member, ASPPB Agreement of Reciprocity
Louisiana	Yes	Reciprocity agreement with Texas; Accepts CPQ
Maine	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Maryland	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Massachusetts	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Michigan	Yes	Accepts CPQ. Licenses by endorsement if psychologist has been licensed for 10 years in another jurisdiction.
Minnesota	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Mississippi	Yes	Accepts CPQ; Member, ASPPB Agreement of Reciprocity - Applicant under reciprocity or CPQ holder must pay fees and take jurisprudence/ethics section of oral exam

State	Reciprocity or CPQ	Additional Comments
Missouri	Yes	Member, ASPPB Agreement of Reciprocity; Accepts CPQ
Montana	No	
Nebraska	Yes	Accepts CPQ. Has voted to join ASPPB Agreement of Reciprocity and is in the process of implementation.
Nevada	Yes	Member, ASPPB Agreement of Reciprocity. Accepts CPQ; CPQ holder must take application, pay fees and pass oral jurisprudence exam
New Hampshire	Yes	Member, ASPPB Agreement of Reciprocity; Accepts CPQ.
New Jersey	Yes	Accepts CPQ.
New Mexico	Yes	Accepts CPQ
New York	No	May license by endorsement candidate who meets all requirements for licensure. Exam and experience from other jurisdictions will be evaluated for equivalence.
North Carolina	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
North Dakota	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Ohio	Yes	Accepts CPQ; applicant must take Ohio oral exam. Licensure by endorsement available for ABPP diplomat or individual licensed in another U.S. state, territory or District of Columbia; must meet 140/70% score on EPPP and take oral jurisprudence exam.
Oklahoma	Yes	Accepts CPQ; Member, ASPPB Agreement of Reciprocity
Oregon	Yes	Accepts CPQ; contact board for specific requirements. Has voted to join ASPPB Agreement of Reciprocity and is in the process of implementation.
Pennsylvania	Yes	Accepts CPQ; also, may waive EPPP requirement for individuals licensed in jurisdictions with equivalent requirements to Pennsylvania
Rhode Island	Yes	Accepts CPQ, applicant must pay fees and pass oral ethics and jurisprudence exam.
South Carolina	No	
South Dakota	No	Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Tennessee	Yes	Accepts CPQ.
Texas	Yes	Member, ASPPB Agreement of Reciprocity; also agreement with Louisiana
Utah	No	Licensure by endorsement possible for ABPP diplomat. Board has voted to accept CPQ; in the process of changing rules and statutes for implementation
Vermont	Yes	Accepts CPQ; Licensure by endorsement possible for an individual licensed in another jurisdiction with requirements essentially equivalent to Vermont's requirements.
Virgin Islands	No	
Virginia	Yes	Accepts CPQ; may waive EPP and state examination requirements for psychologist meeting endorsement criteria
Washington	Yes	Accepts CPQ.
West Virginia	Yes	Accepts CPQ.

State	Reciprocity or CPQ	Additional Comments
Wisconsin	Yes	Member, ASPPB Agreement of Reciprocity; Accepts CPQ; holder will make application, pay fees and must pass jurisprudence exam and interview
Wyoming	Yes	Accepts CPQ.

Appendix I.

Model EMAC Agreements (Selected Provisions)

Article V - Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

Article VI - Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

Article VII - Supplementary Agreements

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

Article VIII - Compensation

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

APPENDIX J.

Definitions of Occupational Disease for Workers' Compensation in ESAR-VHP Phase I-III States

State	Definition of "occupational disease"	Citation
Alabama	"*Occupational Disease*" is a disease arising out of and in the course of employment, including occupational pneumoconiosis and occupational exposure to radiation as defined in subdivisions (2) and (3), respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, including, but not limited to, loss of hearing due to noise, shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of the trade, process, occupation, or employment.	Ala. Code 1975 § 25-5-110 (2005)
Alaska	"Injury" means accidental injury or death arising out of and in the course of employment, and an *occupational disease* or infection that arises naturally out of the employment or that naturally or unavoidably results from an accidental injury; "injury" includes breakage or damage to eyeglasses, hearing aids, dentures, or any prosthetic devices that function as part of the body and further includes an injury caused by the willful act of a third person directed against an employee because of the employment.	Alaska Stat. § 23.30.395 (Michie 2006)
Arizona	"Personal injury by accident arising out of and in the course of employment" means any of the following: (a) Personal injury by accident arising out of and in the course of employment; (b) An injury caused by the willful act of a third person directed against an employee because of the employee's employment, but does not include a disease unless resulting from the injury; (c) An *occupational disease* which is due to causes and conditions characteristic of and peculiar to a particular trade, occupation, process or employment, and not the ordinary diseases to which the general public is exposed, and subject to section 23-901.01.	Ariz. Rev. Stat. § 23-901 (2005)
Arkansas	"*Occupational disease*", as used in this chapter, unless the context otherwise requires, means any disease that results in disability or death and arises out of and in the course of the occupation or employment of the employee or naturally follows or unavoidably results from an injury as that term is defined in this chapter. However, a causal connection between the occupation or employment and the occupational disease must be established by a preponderance of the evidence.	Ark. Code Ann. § 11-9-601 (West 2005)
California	"*Injury*" includes any injury or disease arising out of the employment, including injuries to artificial members, dentures, hearing aids, eyeglasses and medical braces of all types; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for, unless injury to them is incident to an injury causing disability.	Cal. Lab. Code § 3208 (West 2003)
Colorado	"*Occupational disease*" means a disease which results directly from the employment or the conditions under which work was performed, which can be seen to have followed as a natural incident of the work and as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as a proximate cause and which does not come from a hazard to which the worker would have been equally exposed outside of the employment.	Colo. Rev. Stat. § 8-40-201 (2005)
Connecticut	"[A]ny disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such, and includes any disease due to or attributable to or contact with any radioactive material in the course of his employment."	Conn. Gen. Stat. § 28-1 (2005)
Delaware	"*Compensable occupational diseases*" includes all occupational diseases arising out of and in the course of employment only when the exposure stated in connection therewith has occurred during employment.	Del. Code Ann. tit. 19, § 2301 (2005)
District of Columbia	In case of pneumoconiosis, such as silicosis and asbestosis, radiation diseases, and any other generally recognized occupational disease, liability for compensation rests with the employer of the last known exposure.	D.C. Code Ann. § 32-1510 (2005)
Florida	"*Occupational disease*" shall be construed to mean only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment, and to exclude all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public. "Occupational disease" means only a disease for which there are epidemiological studies	Fla. Stat. Ann. § 440.151 (West 2005)

State	Definition of "occupational disease"	Citation
	showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.	
Georgia	"*Occupational disease*" means those diseases which arise out of and in the course of the particular trade, occupation, process, or employment in which the employee is exposed to such disease, provided the employee or the employee's dependents first prove to the satisfaction of the State Board of Workers' Compensation all of the following: (A) A direct causal connection between the conditions under which the work is performed and the disease; (B) That the disease followed as a natural incident of exposure by reason of the employment; (C) That the disease is not of a character to which the employee may have had substantial exposure outside of the employment; (D) That the disease is not an ordinary disease of life to which the general public is exposed; (E) That the disease must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence.	Ga. Code Ann. § 34-9-280 (2004)
Hawaii	None.	
Idaho	"*Occupational disease*" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.	Idaho Code § 72-102 (Michie 2006)
Illinois	In this Act the term "*Occupational Disease*" means a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation shall arise out of a risk peculiar to or increased by the employment and not common to the general public. A disease shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin or aggravation in a risk connected with the employment and to have flowed from that source as a rational consequence. An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when, for any length of time however short, he or she is employed in an occupation or process in which the hazard of the disease exists; provided however, that in a claim of exposure to atomic radiation, the fact of such exposure must be verified by the records of the central registry of radiation exposure maintained by the Department of Public Health or by some other recognized governmental agency maintaining records of such exposures whenever and to the extent that the records are on file with the Department of Public Health or the agency. Any disease or death of an employee arising from the administration of a vaccine to the employee as part of a voluntary inoculation program sponsored or recommended by the employee's employer or in connection with any governmental program or recommendation for the inoculation of workers in the employee's occupation, geographical area, or other category that includes the employee is deemed to arise out of and in the course of employment for all purposes under this Act.	820 Ill. Comp. Stat. 310/1 (2005)
Indiana	"*Occupational disease*" means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.	Ind. Code Ann. § 22-3-7-10 (Michie 2006)
Iowa	"*Occupational diseases*" shall be only those diseases which arise out of and in the course of the employee's employment. Such diseases shall have a direct causal connection with the employment and must have followed as a natural incident thereto from injurious exposure occasioned by the nature of the employment. Such disease must be incidental to the character of the business, occupation or process in which the employee was employed and not independent of the employment. Such disease need not have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have resulted from that source as an incident and rational consequence. A disease which follows from a hazard to which an employee has or would have been equally exposed outside of said occupation is not compensable as an occupational disease.	Iowa Code § 85A.8 (2005)

State	Definition of "occupational disease"	Citation
Kansas	"*Occupational disease*" shall mean only a disease arising out of and in the course of the employment resulting from the nature of the employment in which the employee was engaged under such employer, and which was actually contracted while so engaged. "Nature of the employment" shall mean, for purposes of this section, that to the occupation, trade or employment in which the employee was engaged, there is attached a particular and peculiar hazard of such disease which distinguishes the employment from other occupations and employments, and which creates a hazard of such disease which is in excess of the hazard of such disease in general. The disease must appear to have had its origin in a special risk of such disease connected with the particular type of employment and to have resulted from that source as a reasonable consequence of the risk. Ordinary diseases of life and conditions to which the general public is or may be exposed to outside of the particular employment, and hazards of diseases and conditions attending employment in general, shall not be compensable as occupational diseases.	Kan. Stat. Ann. § 44-5a01 (2006)
Kentucky	"*Occupational disease*" means a disease arising out of and in the course of the employment. An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.	Ky. Rev. Stat. Ann. § 342.0011 (West 2005)
Louisiana	An "*occupational disease*" means only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process, or employment in which the employee is exposed to such disease. Occupational disease shall include injuries due to work-related carpal tunnel syndrome. Degenerative disc disease, spinal stenosis, arthritis of any type, mental illness, and heart-related or perivascular disease are specifically excluded from the classification of an occupational disease for the purpose of this Section.	La. Rev. Stat. Ann. § 23:1031.1 (West 2005)
Maine	[T]he term "*occupational disease*" means any abnormal condition or disorder, including an occupational injury, caused by exposure to environmental factors associated with employment. Occupational diseases include the following: Asbestosis; mesothelioma; silicosis; and exposure to heavy metals. Reporting of other occupational diseases may be required only by departmental rules. [T]he term "*occupational disease*" means only a disease that is due to causes and conditions characteristic of a particular trade, occupation, process or employment and that arises out of and in the course of employment.	Me. Rev. Stat. Ann. tit. 22, § 1491 (West 2006) Me. Rev. Stat. Ann. tit. 39-A, § 603 (West 2006)
Maryland	"Accidental personal injury" means: (1) an accidental injury that arises out of and in the course of employment; (2) an injury caused by a willful or negligent act of a third person directed against a covered employee in the course of the employment of the covered employee; or (3) a disease or infection that naturally results from an accidental injury that arises out of and in the course of employment, including: (i) an occupational disease; and (ii) frostbite or sunstroke caused by a weather condition. "*Occupational disease*" means a disease contracted by a covered employee: (1) as the result of and in the course of employment; and (2) that causes the covered employee to become temporarily or permanently, partially or totally incapacitated.	MD Code, Labor and Employment, § 9-101 (2005)
Massachusetts	"Personal injury" [in Workers Compensation statute], "includes infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by an employee is inherent in the employment." "Industrial disease" or "*occupational disease*", any ailment or disease caused by the nature or circumstances of the employment.	Mass. Gen. Laws ch. 152, §1
Michigan	"Personal injury" shall include a disease or disability which is due to causes and conditions which are characteristic of and peculiar to the business of the employer and which arises out of and in the course of the employment. An ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. Mental disabilities and conditions of the aging process, including but	Mich. Comp. Laws Ann. § 418.401

State	Definition of "occupational disease"	Citation
	not limited to heart and cardiovascular conditions, shall be compensable if contributed to or aggravated or accelerated by the employment in a significant manner. Mental disabilities shall be compensable when arising out of actual events of employment, not unfounded perceptions thereof. A hernia to be compensable must be clearly recent in origin and result from a strain arising out of and in the course of the employment and be promptly reported to the employer.	(2005)
Minnesota	"*Occupational disease*" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.	Minn. Stat. § 176.011
Mississippi	"Injury" means accidental injury or accidental death arising out of and in the course of employment without regard to fault which results from an untoward event or events, if contributed to or aggravated or accelerated by the employment in a significant manner. Untoward event includes events causing unexpected results. An untoward event or events shall not be presumed to have arisen out of and in the course of employment, except in the case of an employee found dead in the course of employment. This definition includes injuries to artificial members, and also includes an injury caused by the willful act of a third person directed against an employee because of his employment while so employed and working on the job, and disability or death due to exposure to ionizing radiation from any process in employment involving the use of or direct contact with radium or radioactive substances with the use of or direct exposure to roentgen (X-rays) or ionizing radiation. In radiation cases only, the date of disablement shall be treated as the date of the accident. *Occupational diseases*, or the aggravation thereof, are excluded from the term "injury," provided that, except as otherwise specified, all provisions of this chapter apply equally to occupational diseases as well as injury. Compensation shall be payable for disability or death of an employee from injury or *occupational disease* arising out of and in the course of employment, without regard to fault as to the cause of the injury or occupational disease. An *occupational disease* shall be deemed to arise out of and in the course of employment when there is evidence that there is a direct causal connection between the work performed and the occupational disease.	Miss. Code Ann. § 71-3-3 (2006) Miss. Code Ann. § 71-3-7 (2006)
Missouri	In this chapter the term "*occupational disease*" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence. An occupational disease is compensable if it is clearly work related and meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020. An occupational disease is not compensable merely because work was a triggering or precipitating factor. Any employee who is exposed to and contracts any contagious or communicable disease arising out of and in the course of his or her employment shall be eligible for benefits under this chapter as an occupational disease.	Mo. Rev. Stat. § 287.067 (2005)
Montana	"*Occupational disease*" means harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift. The term does not include a physical or mental condition arising from emotional or mental stress or from a nonphysical stimulus or activity.	Mont. Code Ann. § 39-71-116 (2006)
Nebraska	"*Occupational disease*" means only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment and excludes all ordinary diseases of life to which the general public is exposed; "Injury" and "personal injuries" mean only violence to the physical structure of the body and such	Neb. Rev. Stat. § 48-151 (2004)

State	Definition of "occupational disease"	Citation
	disease or infection as naturally results there from. The terms include disablement resulting from occupational disease arising out of and in the course of the employment in which the employee was engaged and which was contracted in such employment. The terms include an aggravation of a preexisting occupational disease, the employer being liable only for the degree of aggravation of the preexisting occupational disease. The terms do not include disability or death due to natural causes but occurring while the employee is at work and do not include an injury, disability, or death that is the result of a natural progression of any preexisting condition;	
Nevada	1. An occupational disease . . . arise[s] out of and in the course of the employment if: (a) There is a direct causal connection between the conditions under which the work is performed and the occupational disease; (b) It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (c) It can be fairly traced to the employment as the proximate cause; and (d) It does not come from a hazard to which workmen would have been equally exposed outside of the employment. 2. The disease must be incidental to the character of the business and not independent of the relation of the employer and employee. 3. The disease need not have been foreseen or expected, but after its contraction must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence. 4. In cases of disability resulting from radium poisoning or exposure to radioactive properties or substances, or to roentgen rays (X-rays) or ionizing radiation, the poisoning or illness resulting in disability must have been contracted in the State of Nevada.	Nev. Rev. Stat. § 617.440 (2005)
New Hampshire	"*Injury*" or "*personal injury*" as used in and covered by this chapter means accidental injury or death arising out of and in the course of employment, or any occupational disease or resulting death arising out of and in the course of employment, including disability due to radioactive properties or substances or exposure to ionizing radiation. "Injury" or "personal injury" shall not include diseases or death resulting from stress without physical manifestation. "Injury" or " personal injury" shall not include a mental injury if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or any similar action, taken in good faith by an employer. No compensation shall be allowed to an employee for injury proximately caused by the employee's willful intention to injure himself or injure another. Conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable only if contributed to or aggravated or accelerated by the injury. Notwithstanding any law to the contrary, "injury" or "personal injury" shall not mean accidental injury, disease, or death resulting from participation in athletic/recreational activities, on or off premises, unless the employee reasonably expected, based on the employer's instruction or policy, that such participation was a condition of employment or was required for promotion, increased compensation, or continued employment. "*Occupational disease*" means an injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment. It shall not include other diseases or death there from unless they are the direct result of an accidental injury arising out of or in the course of employment, nor shall it include either a disease which existed at commencement of the employment or a disease to which the last injurious exposure to its hazards occurred prior to August 31, 1947.	N.H. Rev. Stat. § 281-A:2 (2005)
New Jersey	"*Compensable occupational disease*" shall include all diseases arising out of and in the course of employment, which are due in a material degree to causes and conditions which are or were characteristic of or peculiar to a particular trade, occupation, process or place of employment. . . . Deterioration of a tissue, organ or part of the body in which the function of such tissue, organ or part of the body is diminished due to the natural aging process thereof is not compensable.	N.J. Stat. Ann. 34:15-31 (2005)
New Mexico	"*Occupational disease*" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such and includes any disease due to, or attributable to, exposure to or contact with any radioactive material by an employee in the course of his employment.	N. M. Stat. Ann. 1978, § 52-3-33 (Michie 2005)
New York	"*Occupational disease*" means a disease resulting from the nature of employment and contracted therein.	McKinney's Workers' Compensation Law § 2 (2004)

State	Definition of "occupational disease"	Citation
North Carolina	Disablement or death of an employee resulting from an occupational disease described in G.S. 97-53 shall be treated as the happening of an injury by accident within the meaning of the North Carolina Workers' Compensation Act and the procedure and practice and compensation and other benefits provided by said act shall apply in all such cases except as hereinafter otherwise provided. The word "accident," as used in the Workers' Compensation Act, shall not be construed to mean a series of events in employment, of a similar or like nature, occurring regularly, continuously or at frequent intervals in the course of such employment, over extended periods of time, whether such events may or may not be attributable to fault of the employer and disease attributable to such causes shall be compensable only if culminating in an occupational disease mentioned in and compensable under this Article. N.C.G.S.A. § 97-53 enumerates the schedule of covered occupational diseases.	N.C. Gen. Stat. Ann. § 97-52 (2003)
North Dakota	The term "occupational disease" is not statutorily defined by North Dakota. However, the excerpt of the definition of "compensable injury" below includes a description of covered and non-covered diseases. "*Compensable injury*" means an injury by accident arising out of and in the course of hazardous employment which must be established by medical evidence supported by objective medical findings. a. The term includes: (1) Disease caused by a hazard to which an employee is subjected in the course of employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. Disease includes effects from radiation… b. The term does not include: (1) Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases, except that the organization may pay for preventive treatment for a health care provider as defined in section 23-07.5-01, firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment who is exposed to a blood borne pathogen as defined in section 23-07.5-01 occurring in the course of employment and for exposure to rabies occurring in the course of employment.	N.D. Cent. Code § 65-01-02 (2006)
Ohio	"[A] disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general."	Ohio Rev. Code Ann. § 4123.01 (West 2005)
Oklahoma	"*Occupational disease*" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease. An occupational disease arises out of the employment only if the employment was the major cause of the resulting occupational disease and such is supported by objective medical evidence, as defined in this section.	85 Okl. St. Ann. § 3 (2005)
Oregon	"*Occupational disease*" means any disease or infection arising out of and in the course of employment caused by substances or activities to which an employee is not ordinarily subjected or exposed other than during a period of regular actual employment therein, and which requires medical services or results in disability or death, including: (A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with dust, fumes, vapors, gases, radiation or other substances. (B) Any mental disorder, whether sudden or gradual in onset, which requires medical services or results in physical or mental disability or death. (C) Any series of traumatic events or occurrences which requires medical services or results in physical disability or death.	Or. Rev. Stat. § 656.802 (2005)

State	Definition of "occupational disease"	Citation
Pennsylvania	The term "*occupational disease*," as used in this act, shall mean only the following diseases: (a) Poisoning by arsenic, lead, mercury, manganese, or beryllium, their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto; (b) Poisoning by phosphorus, its preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto; (c) Poisoning by methanol, carbon bisulphide, carbon monoxide, hydro carbon distillates (naphthas and others), or halogenated hydro carbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact with, handling thereof, or exposure thereto; (d) Poisoning by benzol, or by nitro, amido, or amino derivatives of benzol (dinitro-benzol, anilin, and others), or their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto; (e) Caisson disease (compressed air illness) resulting from engaging in any occupation carried on in compressed air; (f) Radium poisoning or disability, due to radio-active properties of substances or to Roentgen-ray (X-rays) in any occupation involving direct contact with, handling thereof, or exposure thereto; (g) Poisoning by, or ulceration from, chromic acid, or bichromate of ammonium, bichromate of potassium, or bichromate of sodium, or their preparations, in any occupation involving direct contact with, handling thereof, or exposure thereto; (h) Epitheliomatous cancer or ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of those substances, in any occupation involving direct contact with, handling thereof, or exposure thereto; (i) Infection or inflammation of the skin due to oils, cutting compounds, lubricants, dust, liquids, fumes, gases, or vapor, in any occupation involving direct contact with, handling thereof, or exposure thereto; (j) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, or skins, or bodies of animals either alive or dead; (k) Silicosis, anthraco-silicosis or coal worker's pneumoconiosis (the latter two commonly known as Miner's Asthma and hereinafter referred to as anthraco-silicosis or coal worker's pneumoconiosis) in any occupation involving direct contact with, handling of, or exposure to the dust of anthracite or bituminous coal and/or dust of silicon dioxide (SiO[2]); (l) Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos; (m) Tuberculosis, Serum Hepatitis or infectious hepatitis in the occupation of nursing or auxiliary services involving exposure to such disease; (n) All other occupational diseases (1) to which the claimant is exposed by reason of his employment, and (2) which are peculiar to the industry or occupation, and (3) which are not common to the general population. For the purposes of this clause, partial loss of hearing due to noise shall not be considered an occupational disease; (o) Diseases of the heart and lungs, resulting in either temporary or permanent total or partial disability or death, after four years or more of service in fire fighting for the benefit or safety of the public, caused by extreme over-exertion in times of stress or danger or by exposure to heat, smoke, fumes or gases, arising directly out of the employment of any such firemen. The Commonwealth shall pay the full amount of compensation for disability under this clause.	Pa. Stat. Ann. tit. 77, § 1208 (West 2005)
Rhode Island	"*Occupational disease*" means a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment.	R.I. Gen. Laws § 28-34-1 (2006)
South Carolina	The words "*occupational disease*" mean a disease arising out of and in the course of employment which is due to hazards in excess of those ordinarily incident to employment and is peculiar to the occupation in which the employee is engaged. A disease shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation or employment as a direct result of continuous exposure to the normal working conditions thereof. No disease shall be deemed an occupational disease when: (1) It does not result directly and naturally from exposure in this State to the hazards peculiar to the particular employment; (2) It results from exposure to outside climatic conditions; (3) It is a contagious disease resulting from exposure to fellow employees or from a hazard to which the workman would have been equally exposed outside of his employment; (4) It is one of the ordinary diseases of life to which the general public is equally exposed, unless such disease follows as a complication and a natural incident of an occupational disease or unless there is a constant exposure peculiar to the occupation itself which makes such disease a hazard inherent in such occupation; (5) It is any disease of the cardiac, pulmonary or circulatory system not resulting directly from abnormal external gaseous pressure exerted upon the body or the natural entrance into the body through the skin or natural orifices thereof of foreign organic or inorganic matter under circumstances peculiar to the employment and the processes utilized therein; or (6) It is any chronic disease of the skeletal joints.	S.C. Code Ann. § 42-11-10 (Law. Co-op. 2006)
South Dakota	"*Occupational disease*" means a disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment and includes any disease due or attributable to exposure to or contact with any radioactive material by an employee in the course of his	S.D. Codified Laws § 62-

State	Definition of "occupational disease"	Citation
	employment.	8-1 (Michie 2006)
Tennessee	"Injury" and "personal injury" mean an injury by accident arising out of and in the course of employment that causes either disablement or death of the employee and shall include *occupational diseases* arising out of and in the course of employment that cause either disablement or death of the employee and shall include a mental injury arising out of and in the course of employment.	Tenn. Code Ann. § 50-6-102 (2006)
Texas	"[A] disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. The term includes a disease or infection that naturally results from work-related disease. The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease."	Tex. Lab. Code Ann. § 501.026 (2005)
Utah	"[A] *compensable occupational disease* means any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment."	Utah Code Ann. § 34A-3-103 (2006)
Vermont	"*Occupational disease*" means a disease caused by exposure to an occupational health hazard. "*Health hazard*" means any material, including biological material, and/or energy in any form from any source which can adversely affect the health of any employee, or can adversely affect the health of any person exposed in a place of employment or any person adversely exposed from a source in a place of employment. "*Occupational disease*" means a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment and arises out of and in the course of the employment.	Vt. Stat. Ann. tit. 18, § 1416 (2006) Vt. Stat. Ann. tit. 21, § 601 (2006)
Virginia	"*Occupational disease*" means a disease arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment.	Va. Code Ann. § 65.2-400 (2005)
Washington	"*Occupational disease*" means such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title.	West's RCWA 51.08.140 (2005)
West Virginia	"[O]ccupational disease means a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment is compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of occupational pneumoconiosis, a disease shall be considered to have been incurred in the course of or to have resulted from the employment only if it is apparent to the rational mind, upon consideration of all the circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as the proximate cause; (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction: *Provided,* That compensation shall not be payable for an occupational disease or death resulting from the disease unless the employee has been exposed to the hazards of the disease in the state of West Virginia over a continuous period that is determined to be sufficient, by rule of the board of managers, for the disease to have occurred in the course of and resulting from the employee's employment. An application for benefits on account of an occupational disease shall set forth the name of the employer or employers and the time worked for each. The commission may allocate to and divide any charges resulting from such claim among the employers by whom the claimant was employed. The allocation shall be based upon the time and degree of exposure with each employer."	W. Va. Code § 23-4-1 (2005)
Wisconsin	None.	

State	Definition of “occupational disease”	Citation
Wyoming	“*Occupational Disease*” is not specifically defined in Wyoming Statutes. However, the statutory definition of “injury” is included below. "*Injury*" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer and incurred while at work in places where the employer's business requires an employee's presence and which subjects the employee to extrahazardous duties incident to the business. "Injury" does not include: (A) Any illness or communicable disease unless the risk of contracting the illness or disease is increased by the nature of the employment; (B) Injury caused by: (I) The fact the employee is intoxicated or under the influence of a controlled substance, or both, except any prescribed drug taken as directed by an authorized health care provider. The division shall define "intoxicated" and "under the influence of a controlled substance" for purposes of this subparagraph in its rules and regulations; or (II) The employee's willful intention to injure or kill himself or another; (C) Injury due solely to the culpable negligence of the injured employee; (D) Any injury sustained during travel to or from employment unless the employee is reimbursed for travel expenses or is transported by a vehicle of the employer; (E) Any injury sustained by the prisoner during or any harm resulting from any illegal activity engaged in by prisoners held under custody; (F) Any injury or condition preexisting at the time of employment with the employer against whom a claim is made; (G) Any injury resulting primarily from the natural aging process or from the normal activities of day-to-day living, as established by medical evidence supported by objective findings; (H) Any injury sustained while engaged in recreational or social events under circumstances where an employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer; or (J) Any mental injury unless it is caused by a compensable physical injury, it occurs subsequent to or simultaneously with, the physical injury and it is established by clear and convincing evidence, which shall include a diagnosis by a licensed psychiatrist or licensed clinical psychologist meeting criteria established in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association. In no event shall benefits for a compensable mental injury be paid for more than six (6) months after an injured employee's physical injury has healed to the point that it is not reasonably expected to substantially improve.	Wyo. Stat. Ann. § 27-14-102 (Michie 2006)

REFERENCES

[1] As of April 15, 2006, MSEHPA's provisions have been introduced in whole or part through legislative bills or resolutions in 44 states, and passed in 37 states and the District of Columbia (please see http://www.publichealthlaw.net/Resources/ Modellaws.htm).
[2] National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of County and City Health Officers, and the National Association of Attorneys General.
[3] Gostin LO, Sapsin JW, Teret SP, Burris S, Mair JS, Hodge JG, Vernick JS. The Model State Emergency Health Powers Act: Planning for and Response to Bioterrorism and Naturally Occurring Infectious Diseases. *JAMA*; 288:622-628, 2002.
[4] The Model State Emergency Health Powers Act, A Draft for Discussion. December 21, 2001. Available at www.publichealthlaw.net. [hereinafter MSEHPA].
[5] *Id*.
[6] MSEHPA Article IV.
[7] MSEHPA § 104(m).
[8] MSEHPA § 401.
[9] *Id*.
[10] MSEHPA § 402.
[11] MSEHPA § 403(a)(1).
[12] MSEHPA § 403(b).
[13] MSEHPA § 608(b).
[14] MSEHPA § 405.
[15] D.C. CODE ANN. § 7-2304.01 (2002).
[16] 20 ILL. COMP. STAT. 2105/2105-400; 20 ILL. COMP. STAT. 2310/2310-625.
[17] WIS. STAT. § 166.03(1)(b)(1) (2003).
[18] WIS. STAT. § 166.03(1)(b)(8) (2003).
[19] TEX. GOV'T CODE ANN. § 418.014 (Vernon 2003).
[20] TEX. GOV'T CODE ANN. § 418.015 (Vernon 2003).
[21] MASS. ANN. LAWS ch. 17, § 2A (Law. Co-op. 1965).
[22] CAL. GOV'T CODE § 8558 (West 2005).
[23] FLA. STAT. ANN. § 252.34 (West 2005).
[24] *See* OKLA. STAT. ANN. Tit. 63 § 683.3 (West 2004); 35 PA. CONS. STAT. ANN. § 7102 (West 2004); VA. CODE ANN. § 44-146.16 (Michie 2005); WIS. STAT. §166.03(1)(b)(1) (2003).
[25] D.C. CODE ANN.§ 7-2301(3) (2002).
[26] D.C. CODE ANN. § 7-2304.01 (2002).
[27] MINN. STAT. § 12.03 (2003)
[28] Minn. Legis. 149 (West 2005).
[29] OR. REV. STAT. § 401.654 (2003).
[30] *Id*.
[31] OR. ADMIN. R. 333-003-0100, et seq.
[32] Mary Grace Duley, Address at the HRSA Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) Focus Group Meeting (August 11, 2005).
[33] *Id.*
[34] Wisconsin Department of Health and Family Services, Executive Summary of Wisconsin Disaster Credentialing 1 (February 2005).
[35] *Id*.

[36] HEALTH RESOURCES SERVICES ADMINISTRATION, NATIONAL HOSPITAL BIOTERRORISM PREPAREDNESS PROGRAM AWARDEES DESCRIPTIVE ANALYSIS REGARDING ESAR-VHP ACTIVITIES, ESAR-VHP AWARDEE: WISCONSIN 1-2 (May 23, 2005) (on file with authors).
[37] Dennis Tomczyk, ESAR-VHP from the Hospital Perspective, Address at the HRSA Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) Focus Group Meeting (August 12, 2005).
[38] *See* BARRY R. FURROW ET AL., HEALTH LAW 59 (2000).
[39] Massachusetts, for example, has over four pages of specific regulations, promulgated by the Board of Registration in Medicine, setting forth what health care facilities must do before granting privileges to any doctor. *See* 243 MASS. REGS. CODE tit. 3, § 5 (1997).
[40] *See*, *e.g.*, MO. CODE REGS. ANN. tit. 19, § 30-20.021(2)(13)–(19) (2004).
[41] *See id.*
[42] Joint Commission for the Accreditation of Healthcare Organizations (JCAHO), *Comprehensive Accreditation Manual for Hospitals: the Official Handbook* GL-4—GL 6, GL 19 (2004) [hereinafter CAMH].
[43] *See* LAWRENCE O. GOSTIN, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT 47 (2000).
[44] *See* FURROW, *supra* note 41, at 75-91.
[45] For an examination of the practical issues on this topic, see the Technical Guidelines and Standards report.
[46] *See* FURROW, *supra* note 41, at 66.
[47] MINN. STAT. §§ 147.081(2), § 609.0341(1) (2003).
[48] MO. REV. STAT. §§ 334.010, 334.250, 557.021(3)(1)(c).
[49] TEX. OCC. CODE ANN. § 165.152 (Vernon 2005).
[50] *See* FURROW, *supra* note 41, at 66 and 75.
[51] Although states have different requirements regarding examination performance, all states require new physicians to take the USMLE. *See* American Medical Association, State Medical Licensure Requirements and Statistics 20 (2005 ed., 2004) [hereinafter "AMA Requirements"].
[52] *See*, *e.g.*, ILL. ADMIN. CODE. tit. X § 250.315 (2004).
[53] *See* David Stern, *Outside the Classroom: Teaching and Evaluating Future Physicians*, 20 GA. ST. U. L. REV. 877, 890 (2004).
[54] *See* AMA Requirements, *supra* note 65, at 9.
[55] *See* Nursing Practice and Education Committee of the National Council of State Boards of Nursing (NCSBN), *Uniform Core Licensure Requirements*, available at http://www.ncsbn.org/regulation/nursingpractice_nursing_practice_licensing.asp (last visited April 10, 2006).
[56] PATRICIA A. POTTER AND ANNE GRIFFIN PERRY, FUNDAMENTALS OF NURSING (5th ed.) 392 (2001).
[57] Model Nurse Practice Act (MNPA), Art. II.
[58] See POTTER AND PERRY, *supra* note 70, at 383.
[59] *Id.*
[60] Available at http://www.ncsbn.org/regulation/nursingpractice_nursing_practice_model_practice_act.asp (last visited April 10, 2006).
[61] *Id.*
[62] *See generally* Association of State and Provincial Psychology Boards (a), *Exam/Licensure for Psychologists: Licensure Requirements*, available at http://www.asppb.org/licensure/license/general.aspx (last visited October 25, 2005) [hereinafter ASPPB].
[63] Olvey, C.D., Hogg, A. & Counts, W., *Licensure requirements: Have we raised the bar too far?* 33 PROFESSIONAL PSYCHOLOGY: RESEARCH AND PRACTICE 323 (2002).
[64] ASPPB (a), *supra* note 76.
[65] *Id.*; Olvey, et al., *supra* note 77.
[66] ASPPB (e), *Mobility: Agreement of Reciprocity*, available at http://www.asppb.org/mobility/reciprocity/what.aspx (last visited April 10, 2006).
[67] *Id.*
[68] ASPPB (f), *Mobility: Members of the ASPPB Agreement of Reciprocity*, available at http://www.asppb.org/mobility/reciprocity/what.aspx (last visited April 10, 2006.
[69] ASPPB (g), *Mobility: What is the CPQ?*, available at http://www.asppb.org/mobility/cpq/what.aspx (last visited April 10, 2006).
[70] *Id.*
[71] ASPPB (h), *Jurisdictions Currently Accepting the CPQ*, available at http://www.asppb.org/mobility/cpq/states.aspx (last visited April 10, 2006).

[72] *See* MSEHPA, *supra* note 4, at § 608(b) and MIMAL, art. VI.
[73] Emergency Management Assistance Compact, PL 104-321 (1996).
[74] *See, e.g.*, Cal. Gov't Code § 177; D.C. Code Ann. § 7-2209; Neb. Rev. Stat. § A1-109; Nev. Rev. Stat. 415.010; N.J.S.A. 38A:20-3; N.Y. Unconsol. Law § 9321 (McKinney 2005); 35 Pa.C.S.A. § 7111;
[75] N.C.G.S.A. § 90-12.2 (2005).
[76] MSEHPA has been enacted in part by 33 states and the District of Columbia. See www.publichealthlaw.net/Resources/Modellaws.htm. MIMAL has been enacted by 22 states, including Connecticut, Illinois, Missouri, Ohio, and Texas. See NEMA, *Proposed Model Intra State Mutual Aid Legislation*, available at http://www.emacweb.org/?150 (last visited October 22, 2004).
[77] *See* NEMA, *Model Intrastate Mutual Aid Legislation* Art I, VI, available at http://www.emacweb.org/?150 (last visited April 10, 2006) [hereinafter MIMAL]; MSEHPA § 608.
[78] MIMAL, Art. VI.
[79] See Louisiana Executive Orders KBB 05-26, KBB 05-33, KBB 05-47, KBB 05-72.
[80] On March 25, 2006, H.B. 2443 was introduced in the Hawaii Legislature. The bill seeks to ratify EMAC. As of April 6, 2006, the bill had passed both the House and the Senate, and had been sent back to the House for concurrence on Senate amendments.
[81] Emergency Management Assistance Compact, PL 104-321 (1996) Articles I, IV, V [hereinafter EMAC].
[82] National Emergency Management Association, White Paper on Emergency Preparedness 1 (October 1, 2001), *available at* http://170.222.24.9/vem/NEMA_prepare.doc (last visited April 10, 2006).
[83] *Id* at Article 4.
[84] *Id* at Article 1.
[85] CAL. GOV'T CODE ANN. § 177 **(**West 2005). On February 22, 2005, a Bill No. 1075 was introduced in the state Senate which seeks to ratify EMAC. As of August 8, 2005, the bill was still under consideration by the Senate.
[86] INTERNATIONAL EMERGENCY MANAGEMENT ASSISTANCE MEMORANDUM OF UNDERSTANDING (July 18, 2000), *available at* http://www.releases.gov.nl.ca/releases/2000/exec/0718n09.htm (last visited August 8, 2005) [hereinafter IEMAC]. *See also* Priscilla B. Fox, *Cross-Border Assistance in Emergencies: The New England/Eastern Canadian Model*, 11 NEW ENG. J. INT'L & COMP. L. 75 (2005).
[87] ROGER ALLEN BROWN, ET AL., ASSESSING THE STATE AND FEDERAL MISSIONS OF THE NATIONAL GUARD 120 (1995), *available at* http://www.rand.org/publications/MR/MR557/ (last visited August 7, 2005) [hereinafter SREMAC].
[88] *See, e.g.*, the states that have enacted the Nurse Licensure Compact, *supra* note 67.
[89] MINN. STAT. § 12.42 (1996); CONN. GEN. STAT. § 20-9(b)(3) (2003); W. VA. CODE § 30-3-13(b)(5) (West 2004); 20 ILL. COMP. STAT. 3305/16 (2005).
[90] CONN. GEN. STAT. § 20-9(b) (2003).
[91].CAL. BUS. & PROF. CODE § 900 (West 2005).
[92] *Id.*;.CAL. GOV'T CODE § 8659 (West 2005).
[93] W. VA. CODE. § 30-3-13(b)(2) (2004).
[94] MNPA, *supra* note 71, at Art VII(d).
[95] *Id.* at Art. VII(h).
[96] *Id.* at Art VII(i).
[97] 225 ILL. COMP. STAT. 65/5-15 (2004).
[98] MINN. STAT. § 148.271 (2004).
[99] MO. REV. STAT. § 335-081 (2003).
[100] OHIO REV. CODE § 4723.32 (Anderson, 2004).
[101] WIS. STAT. § 441.115 (2003).
[102] W. VA. CODE ANN. § 30-7-12(a) (West 2004)
[103] National Council of State Boards of Nursing, Nurse Licensure Compact Implementation (April 10, 2006), *available at* http://www.ncsbn.org/nlc/rnlpvncompact_mutual_recognition_state.asp (last visited April 10, 2006).
[104] *Id.*

[105] National Council of State Boards of Nursing, Nurse Licensure Compact, *available at* http://www.ncsbn.org/nlc/rnlpvncompact_mutual_recognition_nurse.asp (last visited April 10, 2006).
[106] *Id.*
[107] MASS. GEN. LAWS ch. 112 § 12(B).
[108] *See, e.g.*, MO. CODE REGS. ANN. tit. 19, § 30-20.021(2)(13) – (19) (2004).
[109] *See id.*
[110] Joint Commission for the Accreditation of Healthcare Organizations (JCAHO), *Comprehensive Accreditation Manual for Hospitals: the Official Handbook* GL-5 - GL-6 (2004) [hereinafter CAMH].
[111] *Id.* at GL-6.
[112] Mary E. O'Connor, *Medical Staff Appointment and Delineation of Pediatric Clinical Privileges in Hospitals*, 110 PEDIATRICS 414 (2002).
[113] *Id.*
[114] CAMH, *supra* note 124, at GL-4.
[115] *See, e.g.*, WIS. ADMIN. CODE § HFS 124.12(4)(c) (2004).
[116] *See generally* CAMH, *supra* note 124, at 1.
[117] NCQA, *CVO Certification Information*, available at http://www.ncqa.org/Programs/Accreditation/Certification/cvo/cvotext.htm (last visited April 10, 2006).
[118] *See* JCAHO, *Frequently Asked Questions About Hospital Surveys*, available at http://www.jcaho.org/accredited+organizations/hospitals/faqs/index.htm (last visited April 10, 2006).
[119] CAMH, *supra* note 124, at MS-16 -- MS-23.
[120] *Id.* at MS-1.
[121] *See, e.g.*, ILL. ADMIN. CODE tit. 77, § 250.710 (2004).
[122] *See* Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C. § 1395dd, et seq.; 210 ILL. COMP. STAT. § 80/1 (2004).
[123] *See* JCAHO, *Frequently Asked Questions About Hospital Surveys*, *supra* note 132, at EC-11.
[124] *Id.* at EC-11, MS-27
[125] DAN B. DOBBS, THE LAW OF TORTS 1-4 (2000).
[126] *Id.* at 269-73.
[127] FURROW, *supra* note 41, at 259-78.
[128] *Id.* at 282-85.
[129] New Biloxi Hospital, Inc. v. Frazier, 146 So. 2d 882 (Miss. 1962).
[130] *See, e.g.*, Wright v. HCA Health Services of Louisiana, 877 So. 2d 211, 215 (La. App. 2 Cir. 6/23/04).
[131] DOBBS, *supra* note 145, at 732-33.
[132] Federal Volunteer Protection Act of 1997, P.L. 105-19 (1997); 42 U.S.C. § 14501 et. seq. (2004).
[133] Nonprofit Risk Management Center (NRMC), State Liability Laws for Charitable Organizations and Volunteers 9 (2001, updated 2006), available at http://nonprofitrisk.org/pubs/PDFs/sll.pdf.
[134] 42 U.S.C. § 14503 (2004).
[135] 42 U.S.C. § 14505 (2004).
[136] 42 U.S.C. § 14502 (2004).
[137] OKLA. STAT. ANN. tit. 76 § 32 (West 2005).
[138] Liability protection is not available for acts of gross, willful, or wanton negligence. *Id.*
[139] *See, e.g.*, ALASKA STAT. § 09.50.250 (Michie 2002); GA. CODE ANN. § 50-21-23 (2005).
[140] *See, e.g.*, COLO. REV. STAT. ANN. § 24-10-106 (West 2004); TEX. CIV. PRAC. & REM. CODE § 101.021 (2005).
[141] 28 U.S.C. §§ 1346(b), 2401(b), 2671-80.
[142] *See* United States v. Nordic Village, Inc., 503 U.S. 30, 33 (1992).
[143] Library of Congress v. Shaw, 478 U.S. 310, 318 (1986).

[144] United States v. Mitchell, 445 U.S. 535, 538 (1980).
[145] 28 U.S.C. § 1346(b).
[146] N.J.S.A. § 59:1-3 (2005)
[147] *Id.*
[148] MD. CODE ANN. CTS. & JUD. PROC. § 5-522(b) (2005).
[149] MD. CODE. STATE GOV'T § 12-101 (2005).
[150] N.Y. UNCONSOL. LAW § 9193 (McKinney 2001).
[151] 1980 N.Y. Op. Atty. Gen. (Inf.) 122.
[152] N.M. STAT. ANN. § 41-4-9,10 **(**Michie 2001)
[153] N.M. STAT. ANN. § 41-4-4 (Michie 2001).
[154] WASH. REV. CODE § 4.92.090 (2005).
[155] WASH. REV. CODE § 38.52.180(1) (2005).
[156] WASH. REV. CODE § 32.52.010(4) (2005).
[157] *See, e.g.*, Villamil v. Benages, 628 N.E.2d 568 (Ill.App. 1993); Gordin v. William Beaumont Hosp., 447 N.W.2d 793 (Mich.App. 1989). *See generally* FURROW, *supra* note 41, at 292-94.
[158] Good Samaritan Statutes, 68 ALR 4th 294.
[159] *Id.*; TEX. CIV. PRAC. & REM. CODE § 74.001(a) (Vernon 2005).
[160] *See, e.g.*, MSEHPA, *supra* note 4, at § 804.
[161] MSEHPA § 608(b)(3).
[162] MSEHPA § 608(c)(3).
[163] MSEHPA § 804(a).
[164] MIMAL art. X.
[165] *See* National Emergency Management Association, Model Intrastate Mutual Aid Legislation, Art. X (2004).
[166] CONN. GEN. STAT. § 28-13 (2003).
[167] MICH. COMP. LAWS ANN. § 30.411(4) (West 2004).
[168] MICH. COMP. LAWS ANN. § 30.402(f) (West 2004).
[169] MICH. COMP. LAWS ANN. § 30.411(4) (West 2004).
[170] EMAC, art. VI.
[171] EMAC § 2, art. VI.
[172] EMAC, art. V.
[173] Maryland was able to expand its EMAC coverage to private sector VHPs through the use of the Maryland Defense Force, a uniformed state military agency. Volunteers were temporarily inducted into the MDF and thus were considered as state officials for purposes of EMAC. Ohio has made available a sample agreement between the state and local government agencies to designate local government employees as state employee on a temporary basis for purposes of qualifying under EMAC. This document is available on the EMAC website as http://www.emacweb.org/?123.
[174] *See generally* IEMAC, *supra* note 101; Fox, *supra* note 101.
[175] SREMAC, Art. VI.
[176] *Id.*
[177] U.S. GOV'T ACCT. OFF., HOSPITAL PREPAREDNESS: MOST URBAN HOSPITALS HAVE EMERGENCY PLANS BUT LACK CERTAIN CAPACITIES FOR BIOTERRORISM RESPONSE 13, GAO-03-924 (2003), *available at* http://www.mipt.org/pdf/gao03924.pdf (last visited August 3, 2005).
[178] American Hospital Association, Model Hospital Mutual Aid Memorandum of Understanding 1, available at http://www.nimsonline.com/docs/Mutual_Aid_aj.pdf (last visited August 10, 2005) [hereinafter AHA Model MOU].
[179] *See* DISTRICT OF COLUMBIA HOSPITAL ASSOCIATION, MUTUAL AID MEMORANDUM OF UNDERSTANDING 6-10 (September 27, 2001), *available at* http://www.dcha.org/EP/dchamou.pdf (last visited August 3, 2005) [hereinafter DCHA MOU].

[180] AHA Model MOU, *supra* note 196, at n. 1.
[181] *Id*. at 4. *See also* DCHA MOU, *supra* note 197, at 6-10.
[182] Thompson v. Nason Hospital, 591 A.2d 703, 707 (Pa. 1991) (citing *Ramone v. Mani*, 535 S.W.2d 654 (Tex. Civ. App. 1975) (holding that negligence of nurses in counting sponges during surgery is imputed to hospital under doctrine of respondeat superior), *aff'd*, 550 S.W.2d 270 (Tex. 1977); *Seneris v. Haas*, 291 P.2d 915 (1955) (holding that anesthesiologist whose negligence resulted in patient's paralysis was ostensible agent of hospital; *Darling v. Charleston Community Memorial Hospital*, 211 N.E.2d 253 (1965), (holding hospital liable for corporate negligence because hospital owed patient an independent duty of care).
[183] *Darling*, 211 N.E.2d at 252.
[184] Rauch v. Mike-Mayer, 783 A.2d 815, 827 (Pa. Super. 2001).
[185] Eckhardt v. Charter Hospital of Albequerque, Inc., 953 P.2d 722, 732-33 (N.M. App. 1997).
[186] Johnson v. St. Bernard Hospital, 399 N.E.2d 198, 205 (Ill. App. 1st Dist. 1979).
[187] *Rauch*, 783 A.2d at 828.
[188] *Id.*
[189] FURROW, *supra* note 41, at 381-93.
[190] *See* Foster v. Engelwood Hospital Association, 313 N.E.2d 255, 260 (Ill. App. 1974).
[191] Baird v. Sickler, 433 N.E.2d 593, 595 (Ohio 1982); Sparger v. Worley Hosp., Inc., 547 S.W.2d 582, 585 (Tex. 1977); Thomas v. Raleigh Gen. Hosp., 358 S.E.2d 222, 224-25 (1987); Lewis v. Physician's Ins. Co. of Wisconsin, 627 N.W.2d 484, 492 (Wis. 2001).
[192] Simmons v. St. Clair Mem'l Hosp., 481 A.2d 870, 874 (Pa. Super. 1984). *See also* Burless v. W. Virginia Univ. Hosps., Inc., 601 S.E.2d 85, 93 (W.Va. 2004); Mejia v. Cmty Hosp. of San Bernardino, 122 Cal. Rptr. 2d 233, 236 (Cal. App. 4th Dist. 2002); Petrovich v. Share Health Plan of Illinois, Inc., 719 N.E.2d 756, 765 (Ill. 1999); Capan v. Divine Providence Hosp., 430 A.2d 647, 649 (Pa. Super. 1981).
[193] See Torrence v. Kusminsky, 408 S.E.2d 684, 692 (W. Va. 1991) (holding that "where a hospital makes emergency room treatment available to serve the public as an integral part of its facilities, the hospital is estopped to deny that the physicians and other medical personnel on duty providing treatment are its agents. Regardless of any contractual arrangements with so-called independent contractors, the hospital is liable to the injured patient for acts of malpractice committed in its emergency room, so long as the requisite proximate cause and damages are present."); Adamski v. Tacoma Gen. Hosp., 579 P.2d 970, 979 (Wash. App. 1978); Mduba v. Benedictine Hosp., 384 N.Y.S.2d 527, 529-30 (A.D. 1976).
[194] FURROW, *supra* note 41, at 375-81.
[195] MINN. STAT. § 12.61 (2005). These protections do not apply in cases of "malfeasance in office or willful or wanton actions." *Id.*
[196] *Id.*
[197] HAWAII REV. STAT. 325-20 (2004).
[198] *Id.*
[199] AHA Model MOU, *supra* note 196, at 4.
[200] DCHA MOU, *supra* note 197, at 5.
[201] *Id.* at 7.
[202] *See, e.g.*, Russell v. Texas Dep't of Human Res., 746 S.W.2d 510, 513 (Tex. App. – Texarkana, 1988); Renna Rhodes, *Principles of Governmental Immunity in Texas: The Texas Government Waives Sovereign Immunity When it Contracts – or Does It?*, 27 ST. MARY'S L. J. 679, 693-94 (1996).
[203] Kassen v. Hatley, 887 S.W.2d 4, 13 (Tex. 1994) (applying sovereign immunity doctrine to a Texas state hospital); Sparks v. Texas S. Univ., 824 S.W.2d 328, 330 (Tex. Ct. App. 1992) (recognizing that universities are entities of state and protected by sovereign immunity doctrine).
[204] *Kassen*, 887 S.W.2d at 9.
[205] *Id.*
[206] Jack M. Sabatino, *Privatization and Punitives: Should Governmental Contractors Share the Sovereign's Immunities from Exemplary Damages*, 58 OHIO STATE L. J. 175, 201 (1997).
[207] *Id.*
[208] Boyle v. United Technologies Corp., 487 U.S. 500 (1988).
[209] *Id*. at 511-512.

[210] I*d.*
[211] 380 A.2d 1145 (N.J. Super. A.D. 1977). In this case, the plaintiff brought suit against, among others, the New Jersey Department of Transportation and the private road contractor for injuries sustained in an accident where the plaintiff's vehicle was forced off the roadway by another vehicle and collided with road barricades.
[212] *Id.* at 1149 (citing Yearsley v. W. A. Ross Construction Co., 309 U.S. 18, 21 (1940); Myers v. United States, 323 F.2d 580, 583 (9th Cir. 1963); Dolphin Gardens, Inc. v. United States, 243 F. Supp. 824, 827 (D.Conn.1965).
[213] 9 A.L.R. 382 (1966). *See also* Smith v. General Paving Co., 321 N.E.2d 689 (Ill. App. 1974) (holding that the contractor is entitled to immunity for incidental injuries, but not for negligent conduct); Phegley v. Porter DeWitt Const. Co., Inc., 501 S.W.2d 859, 863 (Mo. App. 1973); Farrell v. L.G. De Felice & Son, 42 A.2d 697 (Conn. 1945) (concluding that "municipal immunity from damages resulting from negligence is not a defense to an agent of a municipality engaged in carrying on its governmental work").
[214] James G. Hodge, Jr., *The intersection of federal health information privacy and state administrative law: the protection of individual health data and worker's compensation,* 51 ADMIN. L. REV. 117-144 (1999).
[215] U.S. Chamber of Commerce. *2004 Analysis of Workers' Compensation Laws*. Washington, DC: U.S. Chamber of Commerce; 2004. Schneider WR. *The Law of Workmen's Compensation 2*.
[216] 1 LARSON A & L.K. LARSON, LARSON'S WORKERS' COMPENSATION LAW (1997).
[217] *Id.*
[218] U.S. Chamber of Commerce, *2004 Analysis of Workers' Compensation Laws*, 2004.
[219] LARSON & LARSON, *supra* note 236; Hood J.B., B.A. Hardy & H.S. Lewis, WORKERS' COMPENSATION AND EMPLOYEE PROTECTION LAWS IN A NUTSHELL (3rd ed. 1999).
[220] Hodge, *supra* note 234.
[221] LARSON & LARSON, *supra* note 236.
[222] *Id.*
[223] *See, e.g.*, Michaels Pipeline Const., Inc. v. Labor & Indus. Review Comm'n, 541 N.W. 2d 241 (Ct. App. 1995).
[224] WIS. STAT. §§ 102.07,166.03, 166.215 (2005).
[225] WIS. STAT. § 166.03(8)(d) (2005).
[226] CONN. GEN. STAT. §§ 28-1, 28-14 (2003); 20 ILL. COMP. STAT. 3305/10 (2005); OHIO REV. CODE ANN. §§ 4123.01, 4122.033 (2005).
[227] OHIO REV. CODE ANN. § 4123.036 (2005); 20 ILL. COMP. STAT. 3305/10 (2005).
[228] WASH. REV. CODE § 38.52.260 (2005); Wash. Admin. Code § 118-04-080 (2005).
[229] MD. CODE ANN., LAB. & EMPL. § 9-232 (2005).
[230] *Id.*
[231] MINN. STAT. § 12.22 (2005).
[232] W. VA. CODE § 23-2-1 (2005).
[233] TEX. LAB. CODE ANN. § 501.026 (Vernon 2005).
[234] VA. CODE ANN. § 65.2-101 (2005).
[235] *Id.*
[236] MO. REV. STAT. § 287.090 (2005).
[237] MASS. GEN. LAWS ch. 30, § 9I.
[238] *See, e.g.*, N.J. STAT. ANN. § 38A: 20-3, Art. VII. (West 2002).
[239] *Id.*
[240] EMAC, *supra* note _, at Art. IX.
[241] SREMAC, *supra* note __, at Art. VIII.
[242] 3 LARSON AND LARSON, *supra* note 236.
[243] *Id.*
[244] *Id.*
[245] *Id.*
[246] WIS. STAT § 166.03(8)(d) (2005); OHIO REV. CODE ANN. § 4123.032 **(**2005); 20 ILL. COMP. STAT. 3305/10 (2005); W. VA. CODE § 23-1-1 (2005).

[247] TEX. LAB. CODE ANN. § 501.026 (Vernon 2005).
[248] 2 LARSON & LARSON, *supra* note 236.
[249] 9 LARSON & LARSON, *supra* note 236.
[250] 3 LARSON & LARSON, *supra* note 236.
[251] *Id.*
[252] MINN. STAT. § 176.011 (2005).
[253] 7 LARSON & LARSON, *supra* note 236.
[254] MODEL PENAL CODE (Proposed Official Draft, 1962).
[255] Paul H. Robinson, *Imputed Criminal Liability*, 93 YALE L.J. 609, 611 (1984).
[256] *See generally* SANFORD H. KADISH & STEPHEN J. SCHULHOFER, CRIMINAL LAW AND ITS PROCESSES 173–234 (7th ed. 2001).
[257] CONN. GEN STAT. § 53a-101 (2003).
[258] BLACK'S LAW DICTIONARY 378 (7th ed. 1999).
[259] *See, e.g.*, CONN. GEN STAT. § 53a-211(c) (2003) (making possession of a sawed-off shotgun a crime).
[260] *EMAC Model Legislation*, § 2, art. I, *available at* http://www.emacweb.org/?13 (last visited Oct. 28, 2004).
[261] *Id.* at § 2, art. IV.
[262] MODEL STATE EMERGENCY HEALTH POWERS ACT, § 804(a) (2001), *available at* http://www.publichealthlaw.net/MSEHPA/MSEHPA2.pdf (last visited Oct. 28, 2004).
[263] 42 U.S.C. § 14501(b) (2000).
[264] 42 U.S.C. § 14503(a)(3) (2000).
[265] 63C AM. JUR. 2D *Public Officers and Employees* § 333 (2004).
[266] *Id.*
[267] Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996).
[268] Centers for Disease Control and Prevention, *HIPAA Privacy Rule and Public Health: Guidance from the Centers for Disease Control and the Department of Health and Human Services*, 52 (Supp.) MORBIDITY AND MORTALITY WEEKLY REPORT 1-20 (2003).
[269] *See* 42 U.S.C. § 300hh-11(e)(3); *see generally* 44 C.F.R. § 206.43 (2004).
[270] 38 U.S.C. §§ 4303, 4312 (2002).
[271] 38 U.S.C. § 4312 (2002).
[272] *Id.*
[273] 38 U.S.C. § 4316 (2002).
[274] *Id.*
[275] 38 U.S.C. § 4313 (2002).
[276] *Id.*
[277] 38 U.S.C. § 4316 (2002).
[278] 38 U.S.C. § 4312 (2002).
[279] 38 U.S.C. § 4302 (2002).
[280] WIS. STAT. § 21.80 (2004).
[281] *Id.* at (1)(a)(2).
[282] *Id.* at (4)(a)(1).
[283] *Id* at (4)(a)(2).
[284] *Id.* at (6).
[285] *See, e.g.*, ALA. CODE 1975 § 36-1-9; ARK. CODE ANN. § 12-85-101, et seq. (2005); DEL. CODE ANN. § 6001, et seq. (2005); GA. CODE ANN., § 38-3-91, et seq. (2005); 5 ILL. COMP. STAT. 335/1, et seq. (2005); IOWA CODE ANN. § 70A.26 (1999); KAN. STAT. ANN. § 75-5546, et seq. (2004); KY. REV. STAT. § 65-395 (2005); MO. ANN. STAT. § 105.267 (West 2005); N.C. GEN. STAT. § 166A-30, et seq (2005); N.D. CENT. CODE § 54-06-14.3 (2003); R.I. GEN. LAWS § 28-49-1, et seq. (2004); UTAH CODE ANN. § 34-43-101, et seq. (2005).

[286] *See, e.g.*, ARK. CODE ANN. §12-85-102 (2005).
[287] 5 ILL. COMP. STAT. 335/3 (2005).
[288] James A. Casey, *Sovereignty by Sufferance: The Illusion of Indian Tribal Sovereignty*, 79 CORNELL LAW REV. 404, 404-405 (1994).
[289] 25 U.S.C. § 13 (1997).
[290] 25 U.S.C. § 450 (1998).
[291] 25 U.S.C. §§ 1601-1683 (Supp. 1998).
[292] P.L. 102-537 (1992).
[293] 25 U.S.C. § 450 (2000).
[294] Indian Tribal Justice Act (Public Law 103-176), 25 U.S.C. 3601 (2000); FEDERAL EMERGENCY MANAGEMENT AGENCY, FINAL AGENCY POLICY FOR GOVERNMENT-TO-GOVERNMENT RELATIONS WITH AMERICAN INDIAN AND ALASKA NATIVE TRIBAL GOVERNMENTS, *available at* http://www.fema.gov/library/natamerpolcy.shtm (last visited August 22, 2005).
[295] 42 U.S.C. § 5122.
[296] 42 U.S.C. § 5196, et seq.
[297] FEDERAL EMERGENCY MANAGEMENT AGENCY, *supra* note 324, at 5-3.
[298] MINN. STAT. § 12.31, subd. 2 (2005).
[299] United States Department of Energy National Transportation Program and Council of Energy Resource Tribes, *Pueblo of Laguna Tribal Emergency Response Commission Presentation*, *available at* http://emd.wa.gov/5-prog/prgms/serc/02-minutes/serc-sep/encl-2.ppt#256 (last visited August 24, 2005).
[300] *Id.*
[301] *Id.*
[302] Federal Emergency Management Agency, *Tribal Emergency Management Conference Report 2* (September 26-28, 2000), *available at* http://www.mnisose.org/Sept%202000%20Tribal%20Emergency%20Management%20Conference%20Report.doc (last visited August 24, 2005).
[303] INDIAN HEALTH SERVICE, INDIAN HEALTH MANUAL, § 1-10.4(B), *available at* http://www.ihs.gov/PublicInfo/Publications/IHSManual/part1/pt1chp10/pt1chpt10.htm (last visited August 22, 2005).
[304] *See id*. at §1-10.4(D).
[305] *See id*. at § 1-10(C).
[306] Tulalip Tribes of Washington Codes and Regulations, Ord. 108 (2004), *available at* http://www.narf.org/nill/Codes/tulalipcode/tulalip108workerscomp.htm (last visited August 24, 2005)
[307] Vt Act 122 (passed on July 1, 2004)
[308] The full text of the MOU executed between the State of Vermont and the Medical Reserve Corps of Southwestern Vermont is *available at* http: www.dps.state.vt.us/homeland/exercise/VEM-MRC_MOU.pdf (last visited on April 29, 2006).
[309] Utah Code Ann. § 58-13-2; *see also* 76 Okl. St. § 32 (Oklahoma), N.C. Gen. Stat. § 1-539.10 (North Carolina), and Conn. Gen. Stat. § 28-13 (Connecticut).
[310] Opinion No. 2006-010 Ala. AG LEXIS 179 (October 25, 2005).
[311] ASPPB, *ASPPB Reciprocity*, available at http://www.asppb.org/mobility/reciprocity/states.aspx and *CPQ Reciprocity*, *available at* *http://www.asppb.org/mobility/cpq/states.aspx* (last visited April 15, 2006).