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MEMORANDUM

Hurricane Katrina Response

Legal Protections for VHPs in Alabama, Louisiana and Mississippi

In response to the current and impending use of volunteer health personnel (VHPs) in the Gulf State region impacted most significantly by Hurricane Katrina, the *Center for Law and the Public's Health* has prepared an initial brief summary table of key legal data and statutory citations concerning protections for VHPs for each of the three states, Louisiana, Mississippi and Alabama.

***Disclaimer** - This information does not represent the official legal positions of any federal, state, or local government nor is it meant to provide specific legal guidance or advice. Rather, this information serves as a tool for assessing VHPs legal interests within a specific jurisdiction. Legal advice on the issues discussed varies depending on state or local laws, the nature of the grantee, and specific circumstances involved. VHPs and their coordinators should contact their local, state or territorial legal advisors for specific legal guidance.*

<i>Legal Issue</i>	Louisiana	Alabama	Mississippi
<i>Is the state a signatory to the Emergency Management Assistance Compact (EMAC)?¹</i>	Yes	Yes	Yes
<i>Is the state a signatory to the Southern Regional Emergency Management Assistance Compact?²</i>	Yes	Yes	Yes
<i>Does the state legally define emergency or disaster?</i>	Emergency and disaster defined under LSA-R.S.	Emergency defined under Ala. Code 1975 §	Emergency and disaster defined under Miss. Code

¹ EMAC provides for mutual assistance between member states during emergency or disaster situations. EMAC dictates the procedures for sharing assets between states to provide mutual assistance, outlines protections for these assets, and provides for reimbursement for the use of persons and other assets during a response. Under EMAC, officers or employees of party states are entitled to waivers of professional licensure requirements, liability protection, and workers' compensation coverage. Currently, EMAC has been executed by 48 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Hawaii and California have not signed onto EMAC.

² SREMAC provides for mutual assistance and legal protections to volunteers in a similar fashion as EMAC. Eighteen states, which are members of the Southern Governors Association, are party members to SREMAC.

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	29:723, which include natural disasters. Governor is vested with power to suspend laws that hinder emergency response (LSA-R.S. 29:724).	31-9-3 (2005). Includes natural disasters.	Ann. § 33-15-5, with varying degrees of disaster and types of emergencies, and including natural disasters.
<i>Does the state legally define public health emergency (PHE)?</i>	Yes (LSA-R.S. 29:762).	No	No
<i>Has the state legally declared an emergency, disaster, or public health emergency? If so, when was it declared and when does it expire?</i>	<p>A State of Emergency for Hurricane Katrina was declared on 8/26/05 by Proclamation No. 48 KBB 2005. It was extended on 9/20/05 by Proclamation No. 54 KBB 2005 and expires on 10/25/05.</p> <p>A State of Emergency for Hurricane Rita was declared on 9/20/05 by Proclamation No. 53 KBB 2005. It expires on 10/20/05.</p> <p>A Public Health Emergency was declared by Executive Order No. KBB 2005-26 on 9/2/05. It was extended most recently on 9/23/05 and expires on 10/25/05.</p>	A State of Emergency due to Hurricane Katrina was declared on 8/28/05.	A State of Emergency due to Hurricane Katrina was declared on 9/2/05 and shall remain in effect “until such time as the threat to public safety shall cease to exist.”
<i>Does the state statutorily define “volunteer?”</i>	Yes. Volunteer First Responders to Louisiana Homeland Security Emergency Assistance and Disaster Service (LSA-R.S. 23:1017.1).	Yes. Any person performing services for an organization, including non-profits, government and hospitals, without compensation, other than for expenses. (Ala. Code § 6-5-336 (2005)).	Yes, for purposes of immunity. Qualified volunteers must not receive compensation for their services, other than reimbursement for expenses or workers’ compensation coverage. (Miss. Code Ann. § 95-9-1).
<i>Does the state offer some liability protections for health care providers during emergencies?</i>	Yes, health care providers are immunized from liability for causing the death of or injury to any person, or damage to property during an emergency or PHE, except in the case of gross negligence or willful misconduct	Yes, for emergency management workers (Ala. Code 1975 § 31-9-16). Immunity available for good faith actions associated with performance of volunteer services, except for willful or wanton misconduct (Ala.	Yes, for state/political subdivision employees/ agents during a declared emergency (Miss. Code Ann. § 33-15-21). Volunteer Immunity is also available for good faith acts associated with volunteer services. No

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	(LSA-R.S. 29:771). State employees and entities engaged in homeland security and emergency preparedness activities are immunized from liability. (LSA-RS 29:735(a)).	Code § 6-5-336). Immunity from liability available for volunteer medical professionals providing medical care at an established free medical clinic, without compensation (Ala. Code § 6-5-663).	immunity for acts or omissions which are intentional, willful, wanton, reckless or grossly negligent (Miss. Code Ann. § 95-9-1). An unpaid volunteer acting on behalf of the University Hospital is afforded coverage under the Tort Claims Act. Op.Atty.Gen. No. 2002-0144, Conerly, March 29, 2002.
<i>Does the state offer some liability protection for hospitals or other health care entities during emergencies?</i>	Yes, health care providers, including hospitals and health care entities, are immunized from liability for causing the death of or injury to any person, or damage to property during an emergency or PHE, except in the case of gross negligence or willful misconduct (LSA-R.S. 29:771, 29:762).	Yes, for emergency management activities (Ala. Code 1975 § 31-9-16). No immunity for vicarious liability of volunteers (Ala. Code § 6-5-336).	Yes, for state/political subdivision employees/agents during a declared emergency (Miss. Code Ann. § 33-15-21).
<i>Does the state offer some workers' compensation coverage for VHPs or other volunteers during emergencies?</i>	No workers' compensation coverage for volunteers. Workers' compensation coverage is available for state employees participating in homeland security or emergency preparedness activities. (LSA-RS 29:735(b)).	Yes, for emergency management volunteers (Ala. Code 1975 §§ 31-9-21, 31-9-16 (2005)).	Yes, for personnel of emergency management support forces (Miss. Code Ann. § 33-15-15).
<i>Does the state authorize waiver of licensure requirements during emergencies?</i>	Yes, under EMAC and SREMAC, but no waiver is stated under emergency declaration laws.*	Yes, under EMAC and SREMAC. Waivers of licensure requirements available for emergency management workers (Ala. Code § 31-9-16(c))*	Yes, under EMAC and SREMAC, but no waiver is stated under emergency declaration laws*
<i>Does the state offer any statutory reemployment protections?</i>	Yes, for Volunteer First Responders to Louisiana Homeland Security Emergency Assistance and Disaster Service (LSA-R.S. 23:1017.2).	Yes, for members of US or AL armed forces (Ala. Code 1975 § 31-2-13).	Yes, for members of the US or MS armed forces (Miss. Code Ann. § 33-1-19).

* The availability of waivers of licensure requirements varies from profession to profession. A full authorization of waivers of licensure requirements may be dependant on the credentials of the individual health professional and a determination by the State licensure board. For more information on the availability of waivers for particular licensed health professions, please contact your state licensing board or other state authorities.