REPORT OF THE FSMB BOARD OF DIRECTORS: EMERGENCY LICENSURE FOLLOWING A NATURAL DISASTER

Introduction

The FSMB Board of Directors tasked the FSMB Advisory Council of Board Executives (Advisory Council) to evaluate the experiences and disaster readiness of state medical and osteopathic boards and develop recommendations to facilitate the interstate mobility of properly licensed physicians and other health care personnel in response to disasters, public health emergencies and mass casualties. The Advisory Council drafted the following report and recommendations after thorough review of state and federal statutes, rules and board policies currently in place regarding licensure following disasters and emergencies.

Because of the varied approaches that are currently in place, statutorily and otherwise, the Advisory Council did not recommend the development and dissemination of model legislation but rather, favored providing an informational report to include resources and examples for boards to use in determining an approach that best meets the needs of the residents and licensees in their respective states.

Section 1. Overview

In 2019, there were 101 state-level major disaster, emergency, and fire management assistance declarations throughout the United States and its territories. Since 2010, there have been more than 1,100 declarations. These declarations were issued in response to a wide range of disasters and emergencies, including, but not limited to, tropical storms and hurricanes, earthquakes, forest fires, and tornados. Each of these disasters required varying degrees of interstate and federal assistance.

States often differ on the statutory and regulatory framework in how to respond to natural disasters, but there are areas where they share commonalities, including mutually agreed upon interstate compacts. These compacts and programs provide frameworks for deploying and utilizing resources, including the use of physicians and other health professionals from other states to provide medical services. According to an FSMB survey of state medical and osteopathic boards conducted in 2019, of which 81 percent responded, 54 percent of boards have statutes in place for the temporary licensure of physicians after an emergency or natural disaster, while 21 percent have regulations and 11 percent have polices or guidelines for the temporary licensure after an emergency or natural disaster. Twenty-three percent of respondents stated that there are no statutes,

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For states that issue temporary licenses after emergencies and natural disasters, there is no uniformity in which a state agency or department manages licensing. Sixty-four percent of boards manage licensing, while licensing is managed by the Department of Health, or its equivalent, in 25 percent of states. In 24 percent of states, licensing is managed by the Governor or Executive Office.

Section 2. Interstate Compacts and Federal Assistance

When public policy issues cross jurisdictional boundaries, states may explore opportunities to establish interstate compacts that encourage multistate cooperation while maintaining state

sovereignty. These Compacts can address critical issues by establishing uniform guidelines, standards, or procedures in the Member states. Historically, Compacts require the consent of the U.S. Congress when a power delegated to the federal government may be affected. Interstate compacts have been established and successfully utilized to support states in responding to natural disasters and emergencies.

**Emergency Management Assistance Compact (EMAC)**

In 1996, Public Law 104-321 was signed into law, which granted the consent of the United States Congress for the Emergency Management Assistance Compact (“EMAC”). EMAC provides a pathway for interstate recognition of licenses held by out-of-state health care professionals when responding to governor-declared states of emergency or disaster. Since becoming law, all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands have enacted legislation to become EMAC members.

Each state and territory that utilizes EMAC has done so through one of five enabling mechanisms. Those mechanisms, which can change over the course of time, include state legislation; memorandums of agreement/understanding; intergovernmental agreements; pre-disaster contracts; and governor executive orders.

EMAC is comprised of 13 articles and standardized procedures, including its purpose and authority, implementation, state responsibilities, limitations, and licenses and permits, among other topics. Regarding licensure and permitting, Article V of EMAC states:

“Article V: License 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 state party, 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.”

State licensing boards do not have the authority to set aside EMAC; only the governor of the state can set aside law through an executive order. Licensees that are deployed through EMAC should bring a copy of their license, certificate, or permit with them, as it may be needed for insurance purposes.

In cooperation with the Association of State & Territorial Health Officials and the National Association of County & City Health Officials, the National Emergency Management Association (NEMA) developed two webinars focused on EMAC and public health and medical professionals. These webinars, available on EMAC’s website, are intended to provide an overview about utilizing

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the Compact. The first webinar is titled “EMAC: A Basic Understanding & Use of the System by Public Health & Medical Professionals” and the second is titled “Use of the EMAC System by Public Health & Medical Professionals: A Discussion.” On August 28, 2019, the FSMB hosted a Roundtable Webinar for state medical boards titled, “When Disaster Strikes: The Emergency Management Assistance Compact,” featuring Angela Coppel, Program Director for NEMA.

Emergency System for the Advance Registration of Volunteer Health Professions (ESAR-VHP)

In 2002, after authorities in New York City had difficulty distinguishing qualified volunteers responding to the September 11 terrorist attacks, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188, was signed into law and mandated the creation of the Emergency System for the Advance Registration of Volunteer Health Professions (“ESAR-VHP”). The purpose of the electronic database system is to verify the credentials, licenses, accreditations, and hospital privileges of health professionals when, during public health emergencies, the professionals volunteer to provide health services in another state.

Initially administered by the Health Resources and Services Administration (HRSA) at the U.S Department of Health and Human Services (HHS), ESAR-VHP is now administered at the federal level by the Office of the Assistant Secretary for Preparedness and Response (ASPR) at HHS. ASPR leads the nation’s medical and public health preparedness for, response to, and recovery from disasters and public health emergencies. ASPR assists each state and territory in establishing a standardized, volunteer registration program. Each state and territory maintains their volunteer database, which allows health professionals in their state to register and have their credentials verified and stored for when an emergency arises (See Appendix A).

To maximize the use of health professionals with varying levels of clinical competency, ESAR-VHP developed a uniform process for classifying and assigning volunteers into one of four credential levels, based upon the provided and verified credentials. The credential levels are as follows:

- **Level 1**: Volunteers who are clinically active in a hospital, either as an employee or by having hospital privileges.
- **Level 2**: Volunteers who are clinically active in a wide variety of settings, such as clinics, nursing homes, and shelters.
- **Level 3**: Volunteers who meet the basic qualifications necessary to practice in the state in which they are registered.
- **Level 4**: Volunteers who have healthcare experience or education that would be useful for assisting clinicians and providing basic healthcare not controlled by the scope of practice.

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6 Office of the Assistant Secretary for Preparedness and Response (ASPR), U.S. Department of Health and Human Services (HHS). [https://www.phe.gov/about/aspr/Pages/default.aspx](https://www.phe.gov/about/aspr/Pages/default.aspx)
laws (may include health professions students or retired health professionals who no longer hold a license).\textsuperscript{7}

Once an emergency is declared and it is determined what resources are needed, ESAR-VHP state coordinators can work with the organizations to identify, match, and send notification to the best volunteer candidates. Those registered with ESAR-VHP are not required to deploy; it is up to the individual if they wish to assist.

\textit{Pandemic and All-Hazards Preparedness and Advancing Innovation Act (PAHPA) of 2019}

Enacted into law on June 24, 2019, Public Law 116-22, the Pandemic and All-Hazards Preparedness and Advancing Innovation Act (PAHPA) of 2019, reauthorized certain programs under the Public Health Services Act and the Federal Food, Drug, and Cosmetic Act.\textsuperscript{8} Included in the provisions of the law are several pertaining to licensure following an emergency.

The law seeks to improve hazard preparedness and response by making additional information available to states seeking to implement mechanisms to waive licensing requirements during emergencies after verifying that a volunteer professional’s license is in good standing in another state. The law also adds a provision that includes making information available to professionals on how to register or enroll in volunteer services during a public health emergency. PAHPA also clarifies that when members of the Medical Reserve Corps or participants in ESAR-VHP are acting during an emergency, they are liable under the laws of the state in which they are acting with an exception with regard to licensure.

Included in PAHPA is a required Government Accountability Office (GAO) study on several emergency response factors including the:
- Number of heath care providers who register under ESAR-VHP in advance to provide services during an emergency
- Number of health care providers credentialed to provide services during an emergency, including those through ESAR-VHP and authorities with the state
- Average time to verify credentials of a health care provider during the period of a public health declaration through ESAR-VHP and individuals verified by an authority within the state
- Whether states, including physician or medical groups, associations, or other relevant provider organization utilize ESAR-VHP for purposes of volunteering during public health emergencies.

As required by PAHPA, the GAO shall conduct the required review by no later than June 24, 2020.

\textbf{Section 3. State Examples}

\footnotesize{\textsuperscript{7} Health Professionals Registration, The Emergency System for Advance Registration of Volunteer Health Professionals. \url{https://www.phe.gov/esarvhp/Pages/registration.aspx}}  
The process, as well as the eligibility, to be temporarily licensed during and after an emergency or natural disaster varies across individual states. These variations can be associated with, but not limited to, scope of practice, duration of licensure, and supervision requirements. The following are a few examples of approaches states have put in place and/or used during a natural disaster.

**Texas**

In Texas, in cases of declared emergency disasters, the executive director of the Texas Medical Board may issue a temporary permit to practice medicine to an applicant who intends to practice under the supervision of a licensed Texas physician, excluding trainees in postgraduate programs.\(^9\) To be eligible for such permits, the applicant must have an active license in another state, territory, or country; must not have any action taken against their medical license; and must be supervised by a physician with an unrestricted medical license in Texas. Applicants must present verification to the Texas Medical Board from the supervising physician as to the purpose for the requested permit and an attestation that they will be continually supervised.

Visiting physicians seeking a temporary permit during a declared emergency disaster must complete the appropriate application (*See Appendix B*). If a visiting physician is granted a temporary permit in response to a declared emergency disaster, the permit is valid for 30 days and there is no licensure fee.

**North Carolina**

In 2018, the North Carolina Medical Board approved board rules regarding licensing after disasters and emergencies.\(^10\) These rules were adopted in addition to the already established emergency provisions currently managed by the state’s Office of Emergency Medical Services (NCOEMS), which has a network and process for bringing medical assistance into North Carolina.

The adopted rules allow for the following two pathways for out-of-state physicians to practice in North Carolina following a disaster or emergency:

**Hospital to Hospital Credentialing**

This pathway allows physicians holding a full, unlimited, and unrestricted license to practice medicine (in any U.S. jurisdiction), and has unrestricted hospital credentials and privileges to practice medicine in their home state, to practice at a hospital licensed by the North Carolina Department of Health and Human Services. Each licensed hospital shall verify physician credentials and privileges, keep a list of all out-of-state physicians practicing at the hospital, and provide that list to the Board within 10 days of beginning and ending practicing medicine at the hospital. Physicians are permitted to practice for either 30 days from the date the physician begins practicing at the hospital or until the emergency or disaster declaration is withdrawn or ended by the appropriate authority, whichever is shorter.

\(^9\) 22 Texas Admin. Code § 172.5  
\(^10\) 21 NCAC 32B.1706 – Physician Practice and Limited License for Disasters and Emergencies.  
[http://reports.oah.state.nc.us/ncac/title%20201%20-  
%20occupational%20licensing%20boards%20and%20commissions/chapter%2032%20-  
%20north%20carolina%20medical%20board/subchapter%20b/21%20ncac%2032b%20.1706.pdf](http://reports.oah.state.nc.us/ncac/title%20201%20-  
%20occupational%20licensing%20boards%20and%20commissions/chapter%2032%20-  
%20north%20carolina%20medical%20board/subchapter%20b/21%20ncac%2032b%20.1706.pdf)
Limited Emergency License

Physicians who hold a full, unlimited, and unrestricted license to practice medicine in any state, territory, or district, but do not have credentials or privileges at a hospital in their home state may complete a limited emergency license application with the Board (See Appendix C). The Board must verify the physician’s license and may limit the physician’s scope of practice. Additionally, the Board shall have jurisdiction over all physicians practicing under this pathway, even after such physicians have stopped practicing medicine under the rule or the limited emergency license has expired. Physicians are permitted to practice for either 30 days from the date the license is issued or until the emergency or disaster declaration is withdrawn or ended, and at which time the issued license shall become inactive, whichever is shorter.

District of Columbia

The Public Health Emergency Law Manual was adopted in June 2017 by the Department of Health, in collaboration with representatives from the Office of the Chief Medical Examiner, the DC Office of the Attorney General, and the DC Courts. The Manual details the laws and regulations relevant to all sectors that may be engaged in emergency response. Included in the Manual is the framework for the scope of practice and license portability for volunteer health practitioners.

In DC, scopes of practice are defined by the Health Occupations Board. However, during disasters and emergencies, the Mayor may determine that it is necessary to modify scopes of practice to address demand. In such instances, the Mayor may issue an Order to expand health care practitioners’ ability to perform certain activities, such as permitting a physician assistant to provide certain services without the supervision of a physician.11

License portability during and after a disaster or emergency is addressed through the EMAC. Additionally, DC adopted portions of the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) which states that when an emergency declaration is in effect, volunteer healthcare practitioners who are licensed and in good standing in their state of licensure, and are registered with a qualified registrations, they may practice while located in DC. The provision further states that volunteers may only practice within their scope of practice in the state of licensure.12

The UEVHPA is model legislation developed in 2006 by the Uniform Law Commission in response to criticisms made after Hurricane Katrina regarding health practitioner licensure. Nineteen (19) states have enacted the UEVHPA.13

Louisiana

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12 D.C. Code §§ 7-2361.01 – 7-2361.12
Regulations for the Louisiana State Board of Medical Examiners authorize the board to issue emergency temporary permits to out-of-state individuals to practice as a physician or allied health care practitioner for upwards of 60 days to provide voluntary medical services in the state during a public health emergency. In order to obtain an emergency temporary permit, individuals must complete an application (See Appendix D) and provide a copy of their current, unrestricted license in good standing from another state. For other healthcare professionals that require physician supervision by Louisiana state law, a physician must be designated on their application.

The Louisiana Department of Health and Hospitals may extend the temporary permit if it deems that emergency services are needed for more than 60 days. The Board may extend or renew an expired emergency temporary permit for one or two additional 60-day periods.

Section 4. Conclusion

This informational report is intended to provide boards with resources and examples to assist in their efforts in assessing the board’s current practices and determining or enhancing an approach that best meets the needs of the residents and licensees in their respective states. The FSMB will continue to collect and maintain information, including state and federal legislation, rules, policies and procedures pertinent to the deployment of health personnel in response to disasters, public health emergencies, and mass casualties. State medical and osteopathic boards are encouraged to proactively share their experiences and best practices with FSMB to facilitate the collection of state specific information.

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14 La. Admin. Code tit. 46, § 412
## Appendix A. State Healthcare Volunteer Registries

<table>
<thead>
<tr>
<th>State</th>
<th>Registry Name</th>
<th>Registry Link</th>
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<td>AK</td>
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<td>State Emergency Registry of Volunteers and Healthcare Personnel Arkansas (SERV Arkansas)</td>
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<td>CO</td>
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<td>DC RESPONDS</td>
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<td>IN</td>
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<td>KS</td>
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<td>LA</td>
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<td>NC</td>
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<td>SC</td>
<td>South Carolina Statewide Emergency Registry of Volunteers (SCSERV)</td>
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Appendix B. Texas Medical Board – Visiting Physician Temporary Permit Application

TEXAS MEDICAL BOARD

INFORMATION NEEDED FOR VISITING PHYSICIAN TEMPORARY PERMIT
(Except in emergency cases, applicants should allow 30 days for processing of a Visiting Physician Temporary Permit)

Visiting Physician’s Information
Name: __________________________________________
Social Security #: ________________________________
DOB: ___________________ Place of Birth (State/Province/Country): __________________
Medical School of Graduation: ________________________________
Date of Graduation (mm/dd/yy): ______________________
Medical License Number(s) and State(s) held, or applied for ____________________________

Sponsoring Physician Information
Name __________________________ Texas license number: ______________
(As imprinted on Texas medical license)

Point of Contact for this Application (this will be the individual TMB staff will contact for additional information and purposes of sending the Visiting Physician Temporary Permit)
Name: __________________________
Email Address: __________________________
Telephone Number: ______________________ Fax Number: __________________________
Mailing Address: __________________________
(Note – all correspondence, including the Visiting Physician Temporary Permit, will be sent to this address)

Procedure Information
Date(s) of procedure: __________________________
Location of procedure - Hospital/Facility Name __________________________
Location of procedure - Complete Address: __________________________
________________________________________________________________________
TX, __________________________
Name of proposed procedure: __________________________
Brief explanation of procedure: __________________________
DPS Computerized Criminal History (CCH) Verification

1. ___________________________ have been notified that a computerized criminal history (CCH) verification check will be performed by accessing the Texas Department of Public Safety Secure Website and will be based on name and DOB information I supply.

Because the name based information is not an exact search and only fingerprint record searches represent true identification to criminal history, the organization (as listed below) conducting the criminal history check is not allowed to discuss any information obtained using this method, therefore the agency may offer the opportunity to have a fingerprint search performed to clear any misidentification based on the name search, if the search provides a criminal report I know could not be mine.

For the fingerprinting process I will be required to submit a full and complete set of my fingerprints for analysis through the Texas Department of Public Safety AFIS (automated fingerprint identification system). I have been made aware that in order to complete this process I must have the correct fingerprinting (FAST) form from this agency, make an online appointment, submit a full and complete set of my fingerprints, and pay a fee to the fingerprinting services company, L1Enrollment Services.

Once this process is completed and the agency receives the data from DPS, the information on my fingerprint criminal history record may be discussed with me.

______________________________
Signature of Applicant

______________________________
Date

Texas Medical Board
Agency Name (Please print)

______________________________
Agency Representative Name (Please print)

______________________________
Signature of Agency Representative

______________________________
Date
Appendix C. North Carolina Limited Emergency License for Disasters and Emergencies
Application

Limited Emergency License for Disasters and Emergencies

This process temporarily authorizes a medical professional not licensed in the state of North Carolina to practice medicine during a declared state of emergency. There is no fee to submit this license application.

NOTE: If you currently hold an active NC license you DO NOT need to obtain a disaster license to volunteer as a medical responder in NC. Under no circumstances should medical professionals self-report to any disaster site to provide assistance, as this may interfere with official emergency response efforts.

Applicant Information

* First Name:  
* Middle Name:  

* Last Name:  

* Address:  

* City  
* State  
* Zipcode  

* Email Address:  

* Phone/Cell Number  

(###) ###-####
Social Security Number:

Date of Birth:  Place of Birth:

Name of Medical School:  Date of Graduation:

Medical License Number(s) and State(s) Held:

Volunteer Plans:
Please indicate how you plan to use your NC limited emergency license. If you will be working with a specific organization or at a specific practice site, please provide the name and location.

Waiver

I waive confidentiality, authorize and request every person, hospital, clinic, government agency (local, state, federal or foreign), court, association, institution or law enforcement agency having custody or control of any documents, records and other information pertaining to me to furnish to the NCMB any such information, including documents, records regarding charges or complaints filed against me, formal or informal, pending or closed, my examination grades, or any other pertinent data and to permit the NCMB or any of its agents or representatives to inspect and make copies of such documents, records, and other information in connection with this application that can subsequently be provided to professional licensing boards, hospitals and other entities when I apply for licensure, staff membership, employment or other privileges. I hereby release, discharge and exonerate the NCMB, its agents or representatives and any person, hospital, clinic, government agency (local, state, federal or foreign), court, association, institution or law enforcement agency having custody or control of any documents, records and other information pertaining to me of any and all liability of every nature and kind arising out of investigation made by the NCMB.
Appendix D. Louisiana State Board of Medical Examiners Emergency Temporary Permit Application

**Complete this form PRIOR to printing**

What category of licensure are you applying for:

<table>
<thead>
<tr>
<th>Physician</th>
<th>Allied Health</th>
<th>Clinical Laboratory</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD, DO</td>
<td>Acupuncture Detoxification Specialist</td>
<td>CLS-Generalist</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Athletic Trainer</td>
<td>CLS-Specialist</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Clinical Exercise Physiologist</td>
<td>CLS-Technician</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Licensed Acupuncturist</td>
<td>Cytotechnologist</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Licensed Respiratory Therapist</td>
<td>Laboratory Assistant</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Midwife</td>
<td>Phlebotomist</td>
</tr>
<tr>
<td>MD, DO</td>
<td>Occupational Therapist</td>
<td></td>
</tr>
<tr>
<td>MD, DO</td>
<td>Occupational Therapy Assistant</td>
<td></td>
</tr>
<tr>
<td>MD, DO</td>
<td>Perfusionist</td>
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</tr>
<tr>
<td>MD, DO</td>
<td>Physician Assistant</td>
<td></td>
</tr>
<tr>
<td>MD, DO</td>
<td>Podiatrist</td>
<td></td>
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<tr>
<td>MD, DO</td>
<td>Polysomnography</td>
<td></td>
</tr>
<tr>
<td>MD, DO</td>
<td>Private Radiological Technology</td>
<td></td>
</tr>
</tbody>
</table>

NAME: LAST    FIRST    MIDDLE    SUFFIX (SR, JR)    TITLE

SOCIAL SECURITY NUMBER: DRIVER’S LICENSE # & STATE:

HOME ADDRESS: STREET & NO.    CITY    STATE & ZIP CODE

HOME PHONE:    CELL:    EMAIL:

MAILING ADDRESS: STREET & NO.    CITY    STATE & ZIP CODE

FACILITY IN LOUISIANA WHERE YOU WILL BE PROVIDING HEALTHCARE SERVICES:

NAME OF FACILITY / STREET & NO.    CITY    STATE & ZIP CODE

IDENTIFICATION:

RACE: SEX: WEIGHT: HEIGHT:

EYES: HAIR: MARKS:

PLACE OF BIRTH: DATE OF BIRTH:

OTHER STATE LICENSES: Have you ever been licensed to practice in any other state, territory, province, or country?

STATE: LICENSE #: ISSUE DATE: EXPIRATION DATE:

STATE: LICENSE #: ISSUE DATE: EXPIRATION DATE:

STATE: LICENSE #: ISSUE DATE: EXPIRATION DATE:

STATE: LICENSE #: ISSUE DATE: EXPIRATION DATE:

Do you have a supervising physician: Yes  No
If yes, list: