

**Testimony of
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Before the Connecticut General Assembly
Committee on Public Safety and Security
Supporting HB 5893**

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Senator Stillman, Representative Dargan, Members of the Public Safety and Security Committee, for the record my name is Eric Fish and I represent the Uniform Law Commission in my capacity as legislative counsel. I am here to testify in support of H. B. No. 5893, an act requiring the establishment of an emergency response system of volunteer health care providers.

I'd like to offer some brief comments regarding (1) the role of the Uniform Law Commission and other groups and organizations in developing this legislation; (2) the principal objectives of the act; and (3) how the legislation expands upon, modifies and clarifies existing Connecticut law.

The Uniform Law Commission

The Uniform Law Commission is a state government organization in operation since 1892 which utilizes the services of unpaid volunteer commissioners from all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands, to develop and recommend uniform laws for consideration by state legislatures. Uniform Law Commissioners are legislators, attorneys in private practice, state and federal judges, law professors, and legislative drafting attorneys. Commissioners are appointed by state governors or state legislators. The only membership requirement, aside from an appointment, is that members must be licensed lawyers.

The Uniform Law Commission is committed to the objective of providing states with nonpartisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of the law and which supports the federal system and facilitates the movement of individuals, business, and resources from state to state. The ULC is best known for its work on the Uniform Commercial Code. However, the ULC has also drafted bulwarks of state statutory including the Uniform Probate Code, the Uniform Partnership Act, and the Uniform Anatomical Gift Act.

The Commission's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws. Observers from the American Hospital Association, American College of Emergency Physicians, American Red Cross, American Medical Association, National Emergency Management Association, and other national organizations contributed greatly to the development of the Act.

The Goals and Objectives of the UEVHPA

The UEVHPA was developed in response to problems encountered by health care practitioners during Hurricanes Katrina and Rita relief efforts. Out of state volunteers experienced significant difficulties being deployed and utilized due to issues with temporary recognition of professional licenses. The legislation also addresses widespread concerns expressed by many volunteers and organizations deploying and using volunteers regarding their exposure to civil liability and the absence of any safety net to compensate volunteers and their families for injuries or fatalities that may occur when providing disaster relief services.

Under current law, these issues are partially addressed in all 50 states by the provisions of the Emergency Management Assistance Compact ("EMAC") which facilitates the interstate utilization of state and local employees in emergency response efforts. Among its other provisions, EMAC provides that (1) health care practitioners deployed from one state to another in response to an emergency will have their professional licenses recognized outside of the jurisdiction in which they are licensed; (2) emergency response workers deployed to respond to emergencies, including health care practitioners, will be afforded protection for civil liability for alleged acts of negligence; and (3) all emergency response workers will be enjoy the benefits of workers' compensation.

As valuable as EMAC has proven to be, it is limited in its application. Only "state forces," *i.e.*, state government employees deployed from one state to another are covered by the provisions of EMAC. Although efforts have been made by a small number of jurisdictions to also incorporate volunteers associated with non-governmental organizations into state forces, the approach has proven to be inadequate and excessively cumbersome to reach the vast majority of non-governmental disaster volunteers.

The rationale for the UEVHPA is very simple and straightforward. Disaster relief efforts are likely to employ non-governmental organizations from across the nation to provide first aid, nursing, and mental health care to residents of emergency shelters. These organizations include charitable disaster relief organizations, such as state chapters of the Red Cross, and play a vital role in this nation's emergency response system. In more severe incidents, these volunteers are needed to distribute medicines, care for individuals displaced from long-term care facilities, supplement the staff available to local healthcare facilities, and operate emergency clinics.

The UEVHPA does not replace EMAC, nor does it supplant existing state law. Instead, the UEVHPA supplements EMAC and other existing state statutes in order to promote and facilitate the use of volunteer health practitioners deployed by non-governmental organizations. Supplementation of EMAC is particularly important to ensure that a state has the "surge capacity" needed to respond both manmade and natural disasters.

The UEVHPA extends to volunteers not formally incorporated into the forces of a deploying state the same benefits and protections provided by EMAC, provided that the volunteers (1) are certified as licensed and in good standing as healthcare practitioners by officially recognized registration systems; (2) practice through healthcare facilities and other "host entities" operating in cooperation with local emergency management agencies and in conformity with local emergency management laws; and (3) conform their activities and scope of practice to any limitations imposed by the host state. Specifically, the UEVHPA provides that during declared emergencies Connecticut will recognize licenses issued to out-of-state practitioners engaged in response efforts unless the State decides to limit or restrict activities of out-of-state professionals.

The Act also provides immunity from civil liability for alleged negligence and affords health practitioners deployed pursuant to the UEVHPA workers' compensation benefits to the same extent as provided to state employees if such benefits are not otherwise available to the practitioners.

The importance of providing civil liability protections and a workers' compensation safety net to non-governmental volunteers was amply illustrated by a recent survey conducted by the American Public Health Association of more than 1,000 of its members interested in participating in emergency relief activities. Approximately 70% of all professionals participating in the survey identified the need for civil liability protections as "important" or "essential" in deciding whether to participate in emergency response efforts and approximately 75% identified the need for a workers' compensation safety net as important or essential.

Relationship of the UEVHPA to Current Connecticut Law

In considering the provisions of the UEVHPA and House Bill 5893, it is important to recognize that the legislation represents a logical extension of existing provisions of Connecticut law designed to facilitate emergency response efforts.

Under Title 28, chapter 517 the Governor may "modify or suspend in whole or in part, by order as hereinafter provided, any statute, regulation or requirement or part thereof whenever in his opinion it is in conflict with the efficient and expeditious execution of civil preparedness functions." Thus, existing Connecticut law, like the laws in most other states, allows the suspension of licensing requirements for out-of-state health practitioners during emergencies.

Unfortunately, the mechanics of issuing and communicating Executive Orders during disasters can be highly problematic. Communications may be disrupted and Governor's Offices may be too overwhelmed to focus attention of professional licensing issues in the midst of a disaster. Moreover, even when promptly issued, it is difficult in the midst of a disaster disseminate information regarding the issuance of Executive Orders.

Following Hurricane Katrina, the State of Louisiana promptly issued an Executive Order allowing health practitioners from other states to practice in Louisiana for the duration of the emergency, but it took many relief organizations ten days to two weeks to confirm that appropriate Executive Orders were in place allowing for the deployment of health practitioners from other states. It is because of such problems that EMAC provides separate and express authorization for the recognition of out-of-state licenses. The UEVHPA incorporates similar

routine and easily understood procedures into state law applicable to non-governmental volunteers.

Existing Connecticut statutes also extend civil immunities and worker's compensation benefits to civil preparedness forces responding to disaster declarations. Under Title 28, Chapter 517, Section 28-13, responders are not liable for damages incurred during relief efforts, except in cases of willful misconduct. The UEVHPA provides for a similar set of rules and corresponds to the policy of this section. Moreover, Title 28, Chapter 517, Section 28-14 extends compensation to individuals engaged in disaster relief. The UEVHPA clarifies when these benefits will be made available and eliminates cumbersome requirements. The liability and worker's compensation sections of the UEVHPA parallel existing state law and will help provide volunteers with clear protections and rights.

The Uniform Emergency Volunteer Health Practitioners Act has been approved by the House of Delegates of the American Bar Association and endorsed by a diverse group of healthcare, public health and disaster relief organizations, including the American Red Cross, the American Public Health Association, United Way of America, the American College of Emergency Physicians, the American Nurses Association, the American College of Surgeons, the ASPCA, National Association of County & City Health Officials, the National Association of County & City Health Officials, the Public Entity Risk Institute, the Trust for America's Health, the American Association for Marriage and Family Therapy, the American College of Nurse-Midwives, National Association of Emergency Medical Technicians, the National Association of State EMS Officials, the American Veterinary Medicine Association and the National Funeral Directors Association.

Since being promulgated in late 2007, the Uniform Act has been enacted into law in Colorado, Indiana, Kentucky, Tennessee, New Mexico, and Utah. During the upcoming 2009 legislative sessions, plans are under consideration for the introduction of the Uniform Act in up to 14 additional jurisdictions, including Arkansas, the District of Columbia, Florida, Illinois, Maryland, Mississippi, New Hampshire, North Dakota, Oklahoma, Pennsylvania, South Dakota, U.S. Virgin Islands, Vermont, and Washington.

Thank you for the opportunity to appear today, and I would be pleased to respond to any questions.