

OLS CLE Presentation

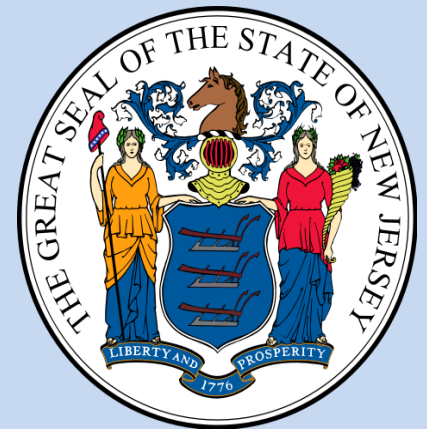
New Jersey Law Revision Commission

*New Jersey Emergency Volunteer Health
Practitioners Act*

Presented by:

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*New Jersey Emergency Volunteer Health
Practitioners Act*

Uniform Emergency Volunteer Health Practitioners Act

- Drafted by the ULC after hurricanes Katrina and Rita struck within weeks of each other in 2005
- When the NJLRC released its Final Report (NJEVHPA) in September of 2013, 16 jurisdictions had adopted versions of the UEVHPA, and 2 had introduced it

Before the UEVHPA - State

Prior to the drafting of the UEVHPA:

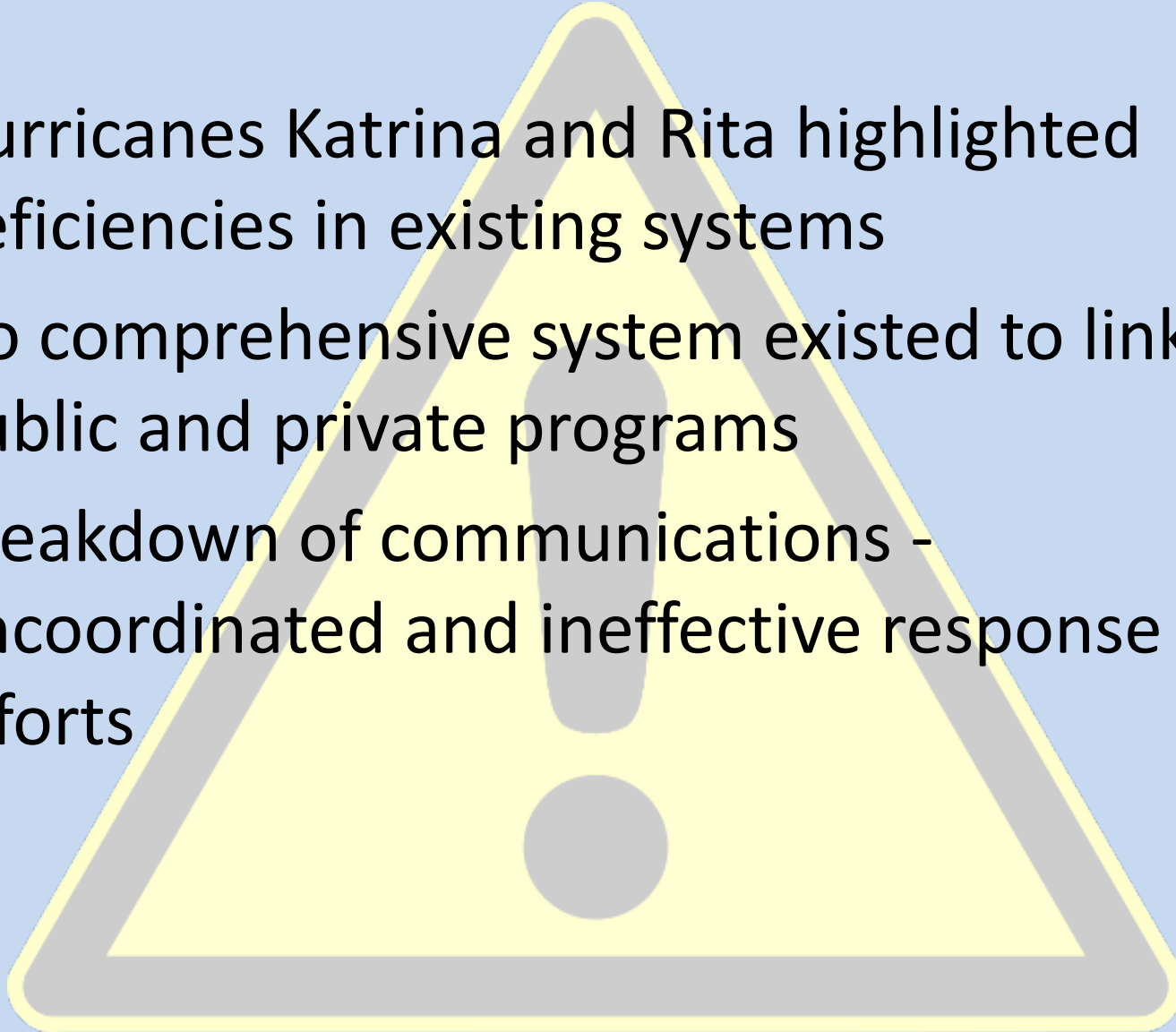
- Emergency management laws - waiver or modification of licensure standards in emergencies
- Emergency Management Assistance Compact (“EMAC”) - national interstate mutual aid agreement

Before the UEVHPA - Federal

- Federal statute - licensed health practitioners can respond to emergencies without complying with professional licensing requirements
- Private sector health practitioners mobilized by charitable NGOs
- MRC
- ESAR-VHP

Before the UEVHPA - 2005

- Hurricanes Katrina and Rita highlighted deficiencies in existing systems
- No comprehensive system existed to link public and private programs
- Breakdown of communications - uncoordinated and ineffective response efforts



NJEVHPA – Policy Objectives

- Making practitioners available for rapid deployment and protecting public health
- Registering volunteers and coordinating between host entities and local agencies
- Clarifying the services volunteers may provide and regulating their activities
- Limiting civil liability for volunteers
- Providing workers' compensation benefits

Rapid Deployment / Public Health



- Primary objective - making volunteer health practitioners available for rapid deployment in response to emergency declarations
- Allow deployment of volunteers
 - Without awaiting affirmative action by host state
 - Preserving a host state's control over the volunteer practitioners

Rapid Deployment / Public Health

- Volunteers must register
- Before deployment
- With public or private registration system
- Capable of confirming and communicating to states utilizing those systems
- That volunteer is properly licensed and in good standing

Rapid Deployment / Public Health

- Section 2
 - Contains definitions for terms, determining Act's scope and applicability
 - Substantially similar to the UEVHPA language
 - Modified to include the names of NJ governmental agencies and cross-references to relevant NJ statutes

Rapid Deployment / Public Health

- “Emergency” is defined as “an event or condition that is an emergency, disaster, incident of bioterrorism, emergency epidemic, pandemic influenza, or other public health emergency under N.J.S. 26:13-1 et seq., the Emergency Health Powers Act”

Rapid Deployment / Public Health

- Health services
 - Individual
 - Population
 - Does not include administrative or other ancillary services
- Health facility
- Health practitioner

Rapid Deployment / Public Health

- “Scope of practice” - extent of authorization to provide services during emergency
 - Established by the state in which practitioner is licensed and *primarily* engages in practice
 - Includes conditions imposed on practitioner’s authorization to do so
 - Inactive license

Rapid Deployment / Public Health

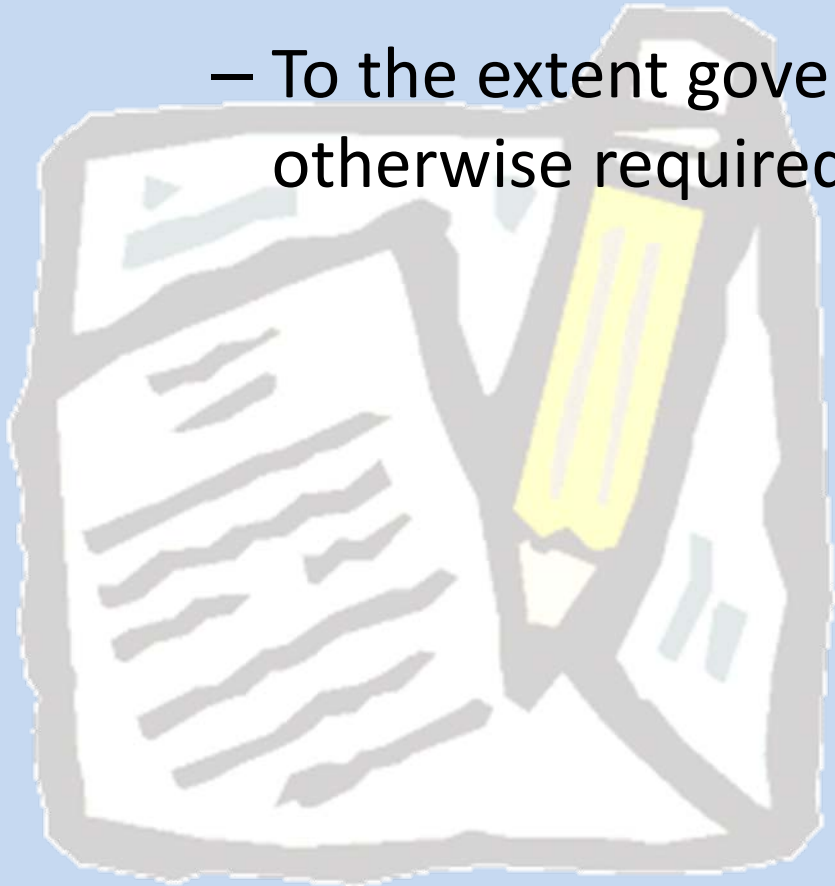
- “Volunteer health practitioner”
 - Individual who voluntarily provides health or veterinary services during a declared emergency
 - Does not require the individual to act without compensation
 - Compensation cannot arise from pre-existing employment relationship with host entity
 - Does volunteer freely choose to provide services in emergency?

Registration / Coordination

- Volunteers should be able to register with proven governmental or private organizations located throughout the country, rather than the affected host state
- Act applicable to “volunteer health practitioners registered with a registration system in the state in which they are licensed to practice . . . and who provide health or veterinary services in New Jersey for a host entity while an emergency declaration is in effect”

Registration / Coordination

- Host entities required to
 - Coordinate their activities with local agencies
 - To the extent governed by, and in the manner otherwise required by, state law



Registration / Coordination

- Function autonomously
- Communications disrupted or public officials focusing on other pressing issues
- No specific order, directive or request from a government agency
- Modified since New Jersey is the only state that requires criminal background checks for health practitioners

Registration / Coordination

- Registration systems authorized if:
 - Effective in responding to the Hurricanes Katrina and Rita
 - Demonstrated resources, competence, and reliability
 - Operated by state governments or other organization approved to establish system

Services / Regulation

- Volunteers must:
 - Limit practice to activities they are licensed, properly trained, and qualified to perform
 - Conform to scope-of-practice authorizations and restrictions imposed by the host states, disaster response agencies and organizations, and host entities
 - Render only health services that would be within the scope of practice of a similarly situated practitioner in the host state

Services / Regulation

- Out-of-state practitioners *not* licensed in the host state
 - Viewed as licensed in that state for duration of emergency
 - *Not* permitted to provide services outside his or her own home state scope of practice *even* if a similarly situated practitioner in the host state would be permitted to do so

Services / Regulation

- Services volunteers may be restricted by:
 - State licensing board
 - Other appropriate state agencies within host state
 - Host entities, like hospitals

Civil liability



- The Act addresses the question of whether and to what extent volunteers and entities deploying, registering, and using their services are responsible for civil claims resulting from a volunteer practitioner's act or omission

Civil liability

- References to New Jersey's Good Samaritan Act ("GSA") and the New Jersey Veterinary Good Samaritan Law ("VGSL") are included in the Act to limit liability of volunteers to the same extent as provided under those laws
- Scope of immunity is expanded to match the parameters of the GSA for services rendered in a health facility

Civil liability

- The Act limits vicarious liability for host entities and entities from other states in a manner consistent with limitation on liability afforded by NJ law to non-profit corporations and associations organized for religious, charitable, educational, or hospital purposes

Workers' Compensation

- The Act is generally consistent with N.J.S. 34:15-75
- Volunteers were not traditionally considered “employees” within the meaning of Title 34 and were not entitled to workers’ compensation
- Not all states that enacted the UEVHPA adopted this section
- Coverage available to volunteers in the absence of other coverage for injury or death



References

- N.J. Law Revision Comm'n, Final Report Relating to the New Jersey Emergency Volunteer Health Practitioners Act, (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc
- Unif. Emergency Volunteer Health Practitioners Act, (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf

Photo Credit

- Slide 3 - http://www.ct.gov/demhs/cwp/view.asp?a=1933&q=463072&demhsNav_GID=1996
- Slide 4 - <http://www.uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>
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- Slide 7 - <http://bdaman.wikia.com/wiki/File:Warning.png>
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- Slide 26 - <http://www.champbell.net/tag/hard-hat/>

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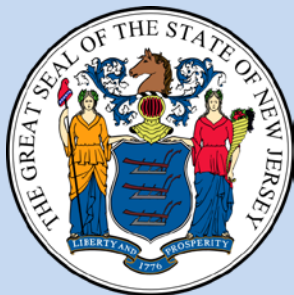
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L. Tharney Speaker Bio

- Laura C. Tharney has been the Executive Director of the New Jersey Law Revision Commission since October 1, 2012. Prior to that time she was the Deputy Director beginning in January 2008 and a Staff Attorney with the Commission beginning in February 2002.
- Ms. Tharney has been a licensed attorney since 1991 and is admitted to practice in New Jersey and New York. Before she began her work with the Commission, Ms. Tharney practiced law at her central-New Jersey law firm. Initially, her firm represented individuals and small businesses in litigation and transactional matters before transitioning to focus on civil and criminal appeals in both New Jersey and New York. Her appellate practice encompassed appeals to the Supreme Court of the United States, New Jersey Supreme Court, New Jersey Appellate Division, New York appellate courts, administrative agencies and municipal boards and bodies.