

American College of Emergency Physicians
Strongly Support
House Bill 666
Uniform Emergency Volunteer Healthcare Practitioners Act
Maryland Chapter President Richard Alcorta, MD FACEP

As president of the Maryland Chapter of the American College of Emergency Physicians (ACEP), I want to express the critical need to adopt a single law that is mirrored from state to state that provides a licensure recognition, workers compensation provision and comprehensive immunity from liability provisions for medical practitioners and medical professionals. Both the national and Maryland Chapter of ACEP feel the Uniform Emergency Volunteer Healthcare Practitioners Act is this single law.

There are over 400,000 Emergency Medicine (EM) physicians and Emergency Medical Services (EMS) providers that respond daily to all forms of community-based emergencies. These are the front line individuals who will rush into the affected area, bringing with them the standards and the equipment to deliver the highest quality of care possible within the constraints of the environment. EMS and the Emergency Departments across Maryland make up the true health care safety net which is currently under significant stress and in the event of a true disaster will need every health care profession. These individuals must be assured of liability protection when they volunteer to respond to a disaster.

The EM and EMS medical community has repeatedly demonstrated extraordinary selflessness during times of disaster; the concerns about liability claims are indeed very real and certainly well-founded, especially when venturing into the unknown to provide care for a vast array of ailments and injuries in a disaster area where there are no assurances that adequate facilities, equipment, medications, or support personnel will be available. Maryland's laws are not clear as to who qualifies for liability protection or workers compensation and in some instance certain types of volunteers are actually except from these protections.

The EM physicians and EMS providers who provided care to Katrina victims through the Department of Health and Human Services were federalized and were provided protection from liability in any work they provided within the scope of their "federal employment." Similarly, the government also assumes this liability in the Model Intrastate Mutual Aid Legislation drafted by the National Emergency Management Association and supported as part of the Emergency Management Assistance Compact. This model legislation states that "all activities performed under this agreement are deemed hereby to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision are deemed to be employees of the requesting participating political subdivision." Similar policies need to be adopted and supported by State

Governments to ensure the liability protection of our EM physicians and EMS providers in the time of community based catastrophic emergencies.

While some may want to frame your discussion of this issue within the political context of the ongoing debate over comprehensive medical liability reform, I implore you to reject such efforts. This issue is too important. This is about getting much-needed medical help as quickly as possible to disaster victims who are in desperate need. Nothing should impede that effort.

Opponents of the immunity provision state that such protection is not necessary, that immunity from liability is an unnecessary incentive. They reference that most state laws already provide some degree of Good Samaritan protection to these disaster responders.

The Good Samaritan laws that exist in nearly all states have great variability and are designed to address the routine daily walk-on emergencies with an intact health care infrastructure. Every State's law is different and all have various limitations. Many of these laws have nullifying clauses which will clearly exclude health care volunteers that come from out of state (not licensed within the state), who may be financially compensated through a community organizations structure or are part of a formal state's team that is responding to another affected state. Each of these examples would in certain states exclude the health care provider from protection under that specific state's Good Samaritan law. Do we want a system where medical personnel do not respond to a disaster because the State fosters weak or inadequate liability protection laws?

There are many programs that are working diligently to recruit and organize volunteer medical corps, as well as formal public health departments or federal response teams. A critical corner stone of discussion with any effort to recruit volunteer EMS providers, nurses and physicians is the issue of liability protection or immunity from litigation when these healthcare providers respond to an austere, devastated area, with limited or no health care infrastructure. There is clear evidence that volunteers are conscious of the physical environmental risk they are placing themselves in but they do not have clarity in their current liability exposure. As communities, states and the federal government establish systems for credentialing and registering healthcare volunteers in advance of a disaster they are seeing health care providers declining participation specifically due to the tort liability vulnerability.

The American College of Emergency Physicians is comprised of thousands of trained and qualified Emergency Medicine physicians who provide daily care for patients with emergency medical illness and critical traumatic injuries. Cover all fifty states and territories of the United States of America. These EM physicians are integrated into the EMS systems in their communities and are often the first physicians to respond to a local or national disaster. These dedicated EM Physicians and EMS providers are the back bone of the volunteer health care network that will respond to affected areas in times of disaster and need the standardization of state to state protections that HB 666 (UEVHPA) will provide.

Both the National and Maryland Chapter of the American College of Emergency Medicine Physicians, strongly recommends the adoption of this critical piece of

legislation to prepare and protect our state to have the health care resources in the event of a disaster.

ACEP Strongly Supports the passage of HB 666