During a public health emergency, physicians may seek to volunteer their professional services in another state. If those out-of-state physicians provide such services without a license, regardless of the necessity for such services, they are exposing themselves to the risk of civil and criminal liability for practicing without a license. As discussed below, depending on the particular state in which the physicians intend to provide their services, the physicians may benefit from a state’s statutory exemption from the licensure requirement for such emergency services or, at least, an expedited licensure process. However, a number of states do not offer either alternative. Therefore, the physicians’ only option to avoid practicing without a license would be to seek temporary federal or state employment.

State Licensure Laws

Out-of-state physicians seeking to provide medical services during a public health emergency must comply with the state’s licensure laws to ensure that they do not practice medicine without a license. Each state falls into one of the following categories:

- States that have adopted the Uniform Emergency Volunteer Health Practitioners Act

A number of states have adopted some form of the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA). Section 6 of the UEVHPA provides for recognition of out-of-state licensure as follows:

**SECTION 6. RECOGNITION OF VOLUNTEER HEALTH PRACTITIONERS LICENSED IN OTHER STATES.**

(a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with Section 5 and licensed and in good standing in the state upon which the practitioner’s registration is based, may practice in this state to the extent authorized by this [act] as if the practitioner were licensed in this state.

(b) A volunteer health practitioner qualified under subsection (a) is not entitled to the protections of this [act] if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

According to The National Conference of Commissioners on Uniform State Laws’ website for the UEVHPA, the act has been enacted in the following states: Arkansas, Colorado, Kentucky, Louisiana, Tennessee, Indiana, New Mexico, North Dakota, Oklahoma, and Utah. Additionally, in 2010, the District of Columbia and the Virgin Islands have enacted the act. 

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1 See Uniform Emergency Volunteer Health Practitioners Act (accessed Jan. 21, 2010).
Islands have introduced legislation to enact the UEVHPA.

- States that Provide for Licensure Exemption

Some states that have not adopted the UEVHPA offer licensure to out-of-state physicians through exemption. For example, the District of Columbia's laws prohibiting the practice of a "health occupation" without a District of Columbia license, registration, or certification do not apply "to an individual who administers treatment or provides advice in any case of emergency."\(^2\)

- States that Permit Expedited Licensure

Other states have methods to expedite their own internal process for licensing physicians. For example, during a public emergency declared by the president of the United States or the governor, the Delaware Board of Medical Practice is authorized to issue a "temporary emergency certificate" for out-of-state physicians to practice medicine in the state.\(^3\)

- States that Do Not Recognize Out-Of-State Licenses or Provide for Exemption or Expedited Licensure

However, a number of states, such as Ohio, have not enacted legislation permitting exemption or expedited review. Unless an out-of-state physician obtains federal or state employment as discussed below, the physician would have to practice without a license if he or she provides medical services in one of these states.

**The Federal Employment Option**

To overcome the obstacle of state licensure, physicians could seek appointment by federal agencies to "intermittent disaster-response personnel."\(^4\) These physicians would be considered employees of the federal Public Health Service. As federal employees, the physicians would not be required to obtain state licensure. However, in the past, long delays have prevented physicians from receiving such appointment in a timely manner.\(^5\)

**The State Employment Option**

The Emergency Management Assistance Compact (EMAC) has established a system for states to provide mutual aid.\(^6\) While the EMAC provides for licensing reciprocity, it is limited to state or local employees. Because EMAC does not clearly define who is an employee, a healthcare professional must check applicable state laws to determine whether they could become an employ by, for example, entering into volunteer services agreements.

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\(^2\) D.C. § 3-1205.02(a)(1). "Emergency" is not defined in the statute.
\(^3\) 24 Del. Code § 1724.
\(^4\) 42 U.S.C. § 5149(b).
\(^6\) P.L. 104-321 (1996) and as enacted by individual states.
Legal Risk of Practicing Without a License

Physicians who desire to provide professional services during a public health emergency should first obtain legal guidance to determine whether a particular state's laws provides for a statutory exemption from the licensure requirement for such emergency services or an expedited licensure process. In the absence of an applicable state licensure law, the physician could consider temporary federal or state employment.

Regardless of the method a physician may choose, he or she must be aware of the legal risk involved in providing any medical services in a state in which the physician has not obtained licensure, even under the circumstances of a public health emergency.