

**ALL HANDS ON DECK: NEW JERSEY LAW
REVISION COMMISSION RECOMMENDS MODIFIED
UNIFORM LAWS TO SAFEGUARD THE PUBLIC AND
ADDRESS DISASTERS AND THEIR AFTERMATH***

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I. INTRODUCTION

*“Hurricane Sandy, now a storm for the record books, hit New Jersey with an unrelenting fury last night, slamming the state on a scale never before seen—pounding the Jersey Shore, flooding roads and highways, and paralyzing much of the Northeast.”*¹

*“Calamitous. Incalculable. Unthinkable. New Jersey officials and residents have run out of words to describe the damage wrought by Hurricane Sandy, a behemoth of a storm that more than lived up to its hype.”*²

In October 2012, Superstorm Sandy’s high winds and high waters slammed into more than 800 miles of the eastern [United States’ (“U.S.”)] seaboard, killing at least 125 . . . and causing damage calculated at well over \$60 billion—the second-costliest storm in U.S. history after 2005’s Hurricane Katrina. New York and New Jersey were the worst hit, with several hundred thousand homes and businesses damaged or destroyed.³

During the storm, one resident of Ocean County, New Jersey “watched as boats . . . floated off their blocks from the marina across the street over to her yard.”⁴ “The boats were coming off their pilings one by one and floating down the street. It was eerie,” she said. “I watched one come in and boards (from the fence) fly up. Then a half hour later another one came and dislodged the other one.”⁵ “[New Jersey] resident Kevin Kelly couldn’t quite tell the damage

¹ Ted Sherman, *PUMMELED: Storm Surge Slams Shore from Cape May to Seaside Heights; Christie Warns Those Who Refuse to Leave to Hunker Down*, THE STAR-LEDGER (Oct. 30, 2012), [http://media.nj.com/ledgerupdates_impact/other/1030Page1\[1\].pdf](http://media.nj.com/ledgerupdates_impact/other/1030Page1[1].pdf).

² Mark Mueller & Ted Sherman, *HISTORIC DEVASTATION: Monster Storm Leaves Destruction Throughout the State, Millions Without Power and a Still-Rising Death Toll*, THE STAR-LEDGER (Oct. 31, 2012), [http://media.nj.com/ledgerupdates_impact/other/1031Page1\[1\].pdf](http://media.nj.com/ledgerupdates_impact/other/1031Page1[1].pdf).

³ *Poll Ranks Top 10 News Stories of 2012*, USA TODAY (Dec. 20, 2012, 9:20 PM), <http://www.usatoday.com/story/news/2012/12/20/year-top-news/1783303/>.

⁴ MaryAnn Spoto, *Point Pleasant Beach Residents Left Shaken in Sandy's Aftermath*, THE STAR-LEDGER (Oct. 30, 2012, 11:03 AM), http://www.nj.com/news/index.ssf/2012/10/point_pleasant_beach_residents_1.html.

⁵ *Id.*

Superstorm Sandy caused his 30-foot Wellcraft Sportfisher when he . . . [first] . . . saw it . . . It was in the middle of Shrewsbury Avenue in Highlands, [New Jersey], under a pile of about 30 boats entangled in power lines.”⁶

The storm, and its aftermath, dominated the local headlines during the late fall and winter of 2012-2013, with news articles throughout the state chronicling scenes of devastation and impacts large and small from which the hardest-hit communities are still recovering. In addition to the widespread coverage and massive damage that Superstorm Sandy and Hurricane Katrina caused to communities, people, and property, those storms, and other emergencies and disasters, exposed gaps and weaknesses in many states’ laws that made it more difficult for those states to respond to, or prepare for, the challenges they ultimately faced. Now that these weaknesses have been identified, states, including New Jersey, have an opportunity to modify their laws so that they are better prepared to face future emergencies and offer enhanced protection to their residents.

In New Jersey, the New Jersey Law Revision Commission (“NJLRC”), an independent legislative commission, serves the State of New Jersey and its citizens by identifying areas of New Jersey law that can be improved by changes to the statutes.⁷ The NJLRC’s statutory mandate is to “promote and encourage the clarification and simplification of the law of New Jersey and its better adaptation to social needs, secure the better administration of justice[,] and carry on scholarly legal research and work.”⁸ The NJLRC is charged with conducting a continuous review of the general and permanent statutes of the state, judicial decisions construing those statutes, and recommendations from other learned bodies such as the Uniform Law Commission (“ULC”), and submitting to the legislature bills designed to remedy defects, reconcile the conflicting provisions found in the law, clarify confusing provisions, and excise

⁶ *Boating Loss From Superstorm Sandy Could Set Record*, INS. J. (Nov. 14, 2012), <http://www.insurancejournal.com/news/east/2012/11/14/270473.htm>.

⁷ 27 N.J. L. REVISION COMM’N, ANN. REP. pt. 1, at 9 (2013), *available at* <https://dspace.njstatelib.org/xmlui/bitstream/handle/10929/30877/NJLRC%202013%20Annual%20Report.pdf?sequence=1> (last visited Feb. 17, 2014).

⁸ N.J. STAT. ANN. § 1:12A-8 (West 2013).

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redundancies.⁹

The ULC studies and reviews “the laws of the states to determine which areas of the law should be uniform.”¹⁰ When issues arise that may lend themselves to a similar approach across many states, the ULC drafts and proposes “specific statutes in areas of the law where uniformity between the states is desirable.”¹¹ The NJLRC recently considered two uniform acts drafted by the ULC that addressed state disaster preparedness and emergency response: the Uniform Certificate of Title for Vessels Act (“UCOTVA”) and the Uniform Emergency Volunteer Health Practitioners Act (“UEVHPA”). Both of those uniform acts were modified by the NJLRC in an effort to ensure that the uniform provisions fit as seamlessly as possible into New Jersey’s existing body of law.

The New Jersey Certificate of Titles for Vessels Act (“NJCOTVA”) creates a statutory scheme for titling vessels that includes provisions to protect purchasers by warning of hull damage. The New Jersey Emergency Volunteer Health Practitioners Act (“NJEVHPA”) facilitates the use of volunteer health practitioners from out of state in response to a declared emergency in New Jersey. The NJLRC recommended enactment of these two modified acts because each affords an opportunity for the New Jersey legislature to provide additional safeguards for the public and, in the case of the NJEVHPA, to increase the emergency preparedness of the state. Both uniform acts are designed to facilitate increased cooperation among the states while allowing appropriate state-specific modifications.

⁹ *Id.* In compliance with its statutory obligation to conduct a continuous review of the general and permanent statutes of the state and the judicial decisions construing those statutes, the NJLRC considers recommendations from the American Law Institute, the ULC (formerly the National Conference of Commissioners on Uniform State Laws), “other learned bodies, and from judges, public officials, bar associations, members of the bar and from the public generally.” *Id.*

¹⁰ *About the ULC*, UNIF. L. COMM’N (2014), <http://www.uniformlaws.org/Narrative.aspx?title=About%20the%20ULC> (last visited February 26, 2014). The ULC (formerly the National Conference of Commissioners on Uniform State Laws) was established in 1892. *Id.*

¹¹ *Id.*

II. NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT

A. Introduction

The NJLRC proposes the NJCOTVA to improve the state's current vessel titling system and recommends revising the New Jersey Boat Ownership Certificate Act ("BOCA").¹² In its current form, the BOCA already tackles many of the issues addressed by the UCOTVA to safeguard the acquisition and transfer of vessels in New Jersey.¹³ The NJLRC recommends enhancing the existing standards established under the BOCA for future disasters by incorporating a modified version of the uniform law to the state's current provisions, allowing vessel titling to more closely resemble motor vehicle titling in New Jersey.¹⁴

The purpose of the NJCOTVA has the same goal as the UCOTVA—to provide a comprehensive system of ownership certification for vessels.¹⁵ The NJCOTVA also shares the three principal objectives of the UCOTVA, which are to: (1) prevent and impede theft; (2) facilitate vessel acquisition, transfer, and financing; and (3) "protect buyers and other acquiring an interest in an undocumented vessel."¹⁶

Superstorm Sandy highlighted the need in New Jersey for additional safeguards to protect consumers and promote boating safety.¹⁷ The force of the storm dismantled entire marinas—boats

¹² N.J. STAT. ANN. §§ 12:7A-1 *et seq.*, (West 2013); UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT (July 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotav_prestylefinal_jul11.pdf.

¹³ See N.J. STAT. ANN. §§ 12:7A-4, 7-9, 16-17, 21-22.

¹⁴ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT 5 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>; UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, WHY STATES SHOULD ADOPT THE UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT (July 2011), *available at* <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20uctva>.

¹⁵ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf.

¹⁶ *Id.*

¹⁷ See Eric S. Blake et al., *Tropical Cyclone Report, Hurricane Sandy*, NAT. HURRICANE

were strewn ashore, landing in yards, streets and even on personal property.¹⁸ Thousands of recreational boats were unrecovered after Sandy, and over 25,000 were reported damaged, which raised several issues, including the repair and resale of damaged or salvaged boats.¹⁹ The NJCOTVA is crafted to strengthen the state's recreational boating industry by enhancing vessel recovery, impeding theft, and protecting buyers acquiring an interest in a vessel.²⁰

B. Background of Marine Vessel Titling Laws

A “composite of state and federal law” governs vessel recording in the United States.²¹ Documentation with the United States Coast Guard (“USCG”) is mandatory for large commercial vessels, defined as “those that measure at least five net tons, are owned by a U.S. entity, and are used in coastwise trade or fisheries.”²² Documentation is not required for vessels that meet the same criteria but are “used solely” for recreational purposes.²³ Less than “one percent of vessels in the United States are documented” because the vast majority of

CTR. (Feb. 12, 2013), *available at* http://www.nhc.noaa.gov/data/tcr/AL182012_Sandy.pdf; *see also* *New Jersey Analysis, MARINE CONSERVATION AGREEMENTS*, http://www.mcatoolkit.org/Country_Analyses/United_States/New_Jersey.html (last visited Jan. 20, 2014) (stating that New Jersey consists of 127 miles of coastline, 1,792 miles of tidal shoreline, and 83 miles of bay).

¹⁸ See Spoto, *Point Pleasant Beach Residents Left Shaken in Sandy's Aftermath*, *supra* note 4

¹⁹ See D. Scott Croft, *Over \$650 Million in Estimated Losses to Boats Makes Storm Single Largest Disaster for Recreational Boats on Record*, BOAT OWNER'S ASSOC. OF AM. (Nov. 14, 2012), <http://www.boatus.com/pressroom/release.asp?id=848>; *see also* U.S. COAST GUARD, RECREATIONAL BOATING STATISTICS (2012), *available at* http://www.uscgboating.org/assets/1/workflow_staging/Page/705.pdf (reporting in 2012, approximately 160,345 recreational boats were registered in New Jersey).

²⁰ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT 5 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>; *see also* NAT'L MARINE MANFRS. ASS'N'S RELEASE, ECONOMIC SIGNIFICANCE OF RECREATIONAL BOATING IN N.J., http://www.nmma.org/assets/cabinets/Cabinet508/New_Jersey_Boating_Economic_s%20State.pdf (reporting that the New Jersey recreational boating industry generates \$2.2 billion in annual economic activity).

²¹ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT 3 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

²² *Id.* (citing 46 U.S.C. § 12102, §12103 (2012)).

²³ *Id.*

vessels are “pleasure boats” used solely for recreational purposes.²⁴ The USCG maintains the National Vessel Documentation Center.²⁵ States are prohibited by federal law “from issuing a certificate of title for a documented vessel” and are required to surrender “any certificate of title previously issued for a documented vessel.”²⁶

States are required by federal law to issue an identifying number to undocumented vessels that are “equipped with propulsion machinery.”²⁷ Each of the fifty states and the U.S. territories must establish an approved vessel numbering system that complies with federal regulations in order to receive certain federal funding.²⁸ The federal regulations, which require this numbering system, are intended to improve boating safety and help “impede, deter, and discover vessel theft.”²⁹ In 1988, Congress created the federal Vessel Identification System (“VIS”), a central database that stores the vessel identification number, along with other information about an undocumented vessel and its owner.³⁰ The USCG maintains the database for the benefit of the public and law enforcement officers.³¹ The purpose of the VIS is “to facilitate commerce in recreational vessels by permitting public access to basic information about vessels numbered and titled under state law.”³² States are encouraged, but not required, to provide their vessel numbering and titling information to the VIS.³³ According to the ULC, thirty-one states and

²⁴ *Id.* at 4.

²⁵ *Id.* at 3 (citing 46 U.S.C. § 12102, §12103 (2012)).

²⁶ *Id.*

²⁷ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT 4 (July 18, 2013) (citing 46 U.S.C. § 12301), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

²⁸ *Id.* (citing 33 C.F.R. Part 3)).

²⁹ *Id.*

³⁰ Pub. L. No. 100-710, 102 Stat. 4735 §§ 12501-12507 (codified at 46 U.S.C. § 12501 (2012)).

³¹ *See* 46 U.S.C. § 12501(a).

³² *See* UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), *available at*

http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf. *See also* 46 U.S.C. § 12501.

³³ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf (stating that a preferred mortgage, or a perfected lien, may only be granted to a vessel documented with the Coast Guard) (citing 46 U.S.C. §§ 31301(6),

territories currently participate in the information exchange aspects of the VIS.³⁴ Issues still arise when a buyer or lender attempts to acquire an interest in a vessel that has moved from one state to another or has changed status under the federal documentation requirement because, under the VIS, transactional information concerning state-titled vessels is generally not available to the public.³⁵

One of the major objectives of the UCOTVA is to establish uniform provisions that delineate what transactional information the states and territories should make available to the public.³⁶ The ULC recommended uniformity in vessel titling because the treatment and documentation of vessels varies considerably from one jurisdiction to another.³⁷ The UCOTVA is designed to address the problems posed by the inconsistencies found in the state laws governing vessel titling, while alleviating the burden of new costs or responsibilities to state titling commissions.³⁸ The ULC designed the UCOTVA to integrate seamlessly with the Uniform Commercial Code (“UCC”), particularly Articles 2 and 9, and to provide clear requirements for all matters relating to a security interest in a vessel.³⁹

State statutes governing vessel titling are often inconsistent in the criteria used to determine whether titling is required for a given vessel.⁴⁰ For example, one of the following three requirements may be used to determine whether a vessel must be titled in the state: (1) the vessel is principally used in that state; (2) the vessel is principally

31321, 31322).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Certificate of Title for Vessels Act Summary*, UNIF. L. COMM’N., <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20for%20Vessels%20Act> (last visited Jan. 20, 2014). See also *Report of the Study Committee on Certificate of Title Act for Boats*, UNIF. LAW COMM’N., http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/studycom_mrpt_120407.pdf (last visited Jan. 20, 2014) (providing background information on the current state of vessel ownership certification law in the United States).

³⁸ See *Why States Should Adopt UCTVA*, UNIF. L. COMM’N., <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20uctva> (last visited Jan. 20, 2014).

³⁹ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), available at http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf.

⁴⁰ *Id.*

moored in the state; or (3) residency of the owner.⁴¹

Further, the ULC observes that the varying statutes “do not all cover the same types of vessels, each making its own distinctions based on size and propulsion.”⁴² As a result, duplication of coverage exists, but more significantly, gaps arise in the coverage provided by the individual state statutes.⁴³ The gaps in coverage invite fraud because the title of a stolen vessel may be “washed” simply by relocating the vessel to another state.⁴⁴

The ULC identifies three other areas of concern with current state vessel titling laws: (1) most state vessel titling statutes were drafted before the revisions to Article 9 of the UCC, and thus do not harmonize with the UCC provisions on security interests; (2) the USCG has not approved the existing state titling statutes; and (3) only a few state titling laws include a branding requirement for damaged or salvaged vessels.⁴⁵ Without an established procedure for marking the title of a damaged vessel, a buyer may unknowingly purchase a vessel with cosmetic repairs that conceal existing structural damage.⁴⁶ This situation poses a grave safety concern, particularly in the aftermath of a hurricane or other natural disaster, when owners and insurers sell damaged recreational boats as salvage.⁴⁷ The buyer of the salvaged boat will often make cosmetic repairs and resell the boat without disclosing the structural damage or the accident history of the vessel.⁴⁸ The ULC crafted the branding requirement to address this issue by providing that if the integrity of a vessel’s hull is compromised by a casualty event, the owner or insurer

⁴¹ *See id.*

⁴² *Certificate of Title for Vessels Act Summary*, UNIF. LAW COMM’N., <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20of%20Vessels%20Act> (last visited Jan. 20, 2014).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Certificate of Title for Vessels Act Summary*, UNIF. L. COMM’N., <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20of%20Vessels%20Act> (last visited Jan. 20, 2014); *see also Why States Should Adopt UCTVA*, UNIF. LAW COMM’N., <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20uctva> (last visited Jan. 20, 2014).

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must, prior to selling the vessel, either note that fact on the existing certificate of title or apply for a new certificate that indicates that the vessel is “hull damaged.”⁴⁹

C. *Current New Jersey Law— New Jersey’s Boat Ownership Certificate Act and the Impact of the Uniform Act on Existing New Jersey Standards*

New Jersey is among the states and territories that already require a certificate of title for certain vessels.⁵⁰ Vessel titling in New Jersey is administered by the state’s Motor Vehicle Commission pursuant to the BOCA.⁵¹ The BOCA was enacted in 1984 and amended shortly before taking effect in 1987.⁵² The BOCA was introduced to:

lower the incidence of theft of marine equipment, such as boats and outboard motors, to improve the tools available to law enforcement agencies, and to increase sales tax revenue derived from the sale of marine equipment by establishing a system for titling marine equipment similar to that now used for titling motor vehicles.⁵³

In enacting the BOCA, the New Jersey legislature was motivated by concerns similar to those expressed by the ULC when it enacted provisions governing vessel ownership and titling.⁵⁴

The NJCOTVA incorporates many of the existing provisions because the current law already resolves many of the issues the ULC intended to address, and the state’s recreational boating community actively relies on the BOCA.⁵⁵ For example, the definition for vessels in the UCOTVA exempts from titling “watercraft less than 16 feet in length and propelled solely by sail, paddle, oar, or an engine of less than 10 horsepower,” while the NJCOTVA incorporates the current

⁴⁹ See UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT §10 (July 2011), available at http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf.

⁵⁰ N.J. STAT. ANN. §§ 12:7A-1 *et seq.*, (West 2013).

⁵¹ *Id.*

⁵² N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT 6 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁵³ A.B. 141, L.1984, c. 152 (N.J. 1984) (Introductory Statement).

⁵⁴ *Id.*

⁵⁵ See N.J. STAT. ANN. §§ 12:7A-4, 7-9, 16-17, 21-22.

standard under the BOCA, which only exempts from titling vessels 12 feet or less in length.⁵⁶

1. State of Principal Use

The definition of “state of principal use” in the NJCOTVA employs both the definition provided for under the UCOTVA and the definition provided under the existing BOCA provision to ensure broad coverage of watercraft present in New Jersey.⁵⁷ The UCOTVA requires titling only for vessels principally used within the state, and defines “state of principal use” as “the state on whose waters a vessel is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.”⁵⁸ Under the BOCA, New Jersey similarly requires titling only for “marine equipment principally used in this State.”⁵⁹ It then defines “principal use within this State” as being “within this State for a period in excess of 180 consecutive days,” not including time when the vessel was in this State for storage or repair purposes.⁶⁰ The NJCOTVA recommends that if a vessel does not require that a certificate of title be issued by the state of New Jersey under the UCOTVA’s definition of “state of principal use,” then New Jersey will be deemed the “state of principal use” (assuming the vessel satisfies the prongs of the current BOCA definition).⁶¹

The NJCOTVA also retains the current BOCA standard allowing buyers ten days to obtain title, instead of the twenty days permitted under the UCOTVA.⁶² However, like the UCOTVA, the clock starts

⁵⁶ *Id.* at 6 (citing UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT §2a.31(C)). This modification avoids a situation in which vessels that were subject to titling requirements under BOCA, such as 15-foot-long sailboats, would no longer be subject to titling requirements if the UCOTVA were adopted in its unmodified form.

⁵⁷ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT, Introduction, 7 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁵⁸ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT § 2a(28) (July 2011), available at http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf.

⁵⁹ N.J. STAT. ANN. § 12:7A-5(a) (West 2013).

⁶⁰ N.J. STAT. ANN. § 12:7A-3(s) (West 2013).

⁶¹ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT § 2a(28) (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁶² N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE

ticking from “the later of the date of ownership transfer or the date on which a state becomes the state of principal use.”⁶³

2. Branding Provision

The BOCA does not include a branding requirement, which is perhaps the most significant component of the UCOTVA.⁶⁴ The BOCA’s most similar provision is section 12:7A-23, which provides in part that a certificate of ownership must be surrendered to the Motor Vehicle Commission if the vessel is “changed in any manner so that it is not the marine equipment described in the certificate of ownership.”⁶⁵ The UCOTVA’s branding provision, mirrored in the NJCOTVA, safeguards the public and improves boating safety by creating a duty to brand in a wide variety of damage situations that may not fall within the terms of section 12:7A-23.⁶⁶ Section 10 of the NJCOTVA requires that:

a. Unless subsection c. applies, at or before the time the owner of record transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the Commission, if the damage occurred while that person was an owner of the vessel and the person has notice of the damage at the time of the transfer, the owner shall:

(1) deliver to the Commission an application for a new certificate that complies with Section 7 and includes the title brand designation “Hull Damaged”; or

(2) indicate on the certificate in the place designated for that purpose that the vessel is hull damaged and deliver the certificate to the transferee.

b. Not later than 20 days after delivery to the Commission of

OF TITLE FOR VESSELS ACT § 6(a) (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁶³ *Id.*

⁶⁴ See UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), *available at*

http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_fi_nalact_2011.pdf (stating that the UCOTVA’s “branding rules may be its greatest innovation.”).

⁶⁵ N.J. STAT. ANN. §§ 12:7A-23. (West 2013).

⁶⁶ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT §10 (July 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_fi_nalact_2011.pdf.

the application under subsection a.1 or the certificate of title under subsection a.2, the Commission shall create a new certificate that indicates that the vessel is branded “Hull Damaged”.

c. Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the Commission, the insurer shall deliver to the Commission an application for a new certificate that complies with Section 6 and includes the title brand designation “Hull Damaged”. Not later than 20 days after delivery of the application to the Commission, the Commission shall create a new certificate that indicates that the vessel is branded “Hull Damaged”.

d. An owner of record that fails to comply with subsection a., a person that solicits or colludes in a failure by an owner of record to comply with subsection a., or an insurer that fails to comply with subsection c. is subject to a *civil administrative penalty* of not more than \$5,000.⁶⁷

Under both the UCOTVA and the NJCOTVA, the process of “branding” title occurs either by the owner of record or through a process initiated by the insurer. But, “[t]o maintain simplicity,” both processes “yield the same, single brand: ‘hull-damaged.’”⁶⁸ The branding provision enhances the current protections provided under New Jersey law by creating a mechanism to determine the damage history, if any, of a vessel, similar to the history currently available for motor vehicles. Consumers, financial institutions, and insurers will find this information of particular import before ownership transfers.⁶⁹

The branding provision also promotes boating safety by encouraging investigation and repair of damaged vessels.⁷⁰ Imposing a civil administrative penalty for failure to comply with the branding requirement strengthens enforcement of the branding provision.⁷¹

⁶⁷ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 10 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁶⁸ UNIF. CERTIFICATE OF TITLE FOR VESSELS ACT, Prefatory note (July 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/ucotva_finalact_2011.pdf.

⁶⁹ *See id.*

⁷⁰ *Id.*

⁷¹ *See* N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF

Even if New Jersey adopted no other part of the NJCOTVA, it could arguably adopt the branding provision simply by amending N.J.S.A. 12:7A-23 to require disclosure of hull damage.⁷²

3. Other Key Provisions

In addition to the branding provision, the NJCOTVA incorporates several other provisions of the UCOTVA to enhance the state's current vessel titling system. For example, like the UCOTVA, the NJCOTVA requires that an application for a certificate of title include, *inter alia*, information about the owner, the vessel, and any secured parties, and must be accompanied by documentary evidence showing the applicant to be an owner of the vessel.⁷³ Most of the information provided in the application will be included on the certificate of title, except for the owner's social security number or taxpayer identification number.⁷⁴

TITLE FOR VESSELS ACT § 10 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁷² Use of the term "hull damaged" in the branding provision was challenged for being overbroad and potentially leading to inconsistent judicial interpretations. *See* Memorandum from Robert S. Fisher, Esq., to Stephen L. Sepinuck, Drafting Committee Member for the Uniform Certificate of Title for Vessels Act (Mar. 18, 2011), *available at* http://www.uniformlaws.org/shared/docs/certificate_of_title_for_vessels/cotav_fisher%20memo_031811.pdf. (last visited Jan. 20, 2014) (requesting a clear, plain language definition to identify what constitutes vessel "compromise" or "hull damage"). Despite the possible challenges a broad interpretation of the term "hull damaged" may pose, the branding provision promotes boating safety by creating a duty to brand in a wide variety of damage situations. In accord, the branding provision has received a favorable response from the boating community and the marine industry. *See Legislative Fact Sheet—Certificate of Title for Vessels Act*, UNIF. LAW COMM'N,

<http://www.uniformlaws.org/Act.aspx?title=Certificate%20of%20Title%20for%20Vessels%20Act> (last visited Jan. 20, 2014); *see also* N.J. LAW REVISION COMM'N, FINAL REPORT: RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁷³ *See* N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 7 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>; *see also Certificate of Title for Vessels Act Summary*, UNIF. L. COMM'N., *available at* <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20for%20Vessels%20Act>.

⁷⁴ *See* N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 9 (July 18, 2013), *available at* <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>. *See also Certificate of*

The provisions on creation and cancellation of the certificate of title under the NJCOTVA are similar to those of the UCOTVA, except that they refer to the administration of the Motor Vehicle Commission in order to conform to current New Jersey practice.⁷⁵ Thus, section 8 of the NJCOTVA provides in relevant part:⁷⁶

a. Unless an application for a certificate of title is rejected under subsection c. or d., the Commission shall create a certificate for the vessel in accordance with subsection b. not later than 20 days after delivery to it of an application that complies with Section 7. *The Commission may require a fee for creation of a written certificate of title.*

b. If the Commission creates electronic certificates of title, the Commission shall create an electronic certificate unless in the application the secured party of record or, if none, the owner of record, requests that the Commission creates a written certificate. *The Commission may require a fee for creation of an electronic certificate of title.*

c. *The Commission or other instrumentality of the State that may process certificates of titles and associated functions shall not incur any personal liability in carrying out the provisions of this section or in furnishing any information provided in accord with this Act from the records of the State.*⁷⁷

Section 11 of the NJCOTVA adopts the UCOTVA provision directing the titling commission to maintain records such that one can conduct a search on a vessel by using one or all of the following criteria: (1) vessel's hull identification number; (2) vessel number; (3) owner's name.⁷⁸

Title for Vessels Act Summary, UNIF. L. COMM'N., available at <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20of%20Vessels%20Act> (last visited Jan. 20, 2014).

⁷⁵ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 8 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁷⁶ Any language italicized in the reproduction of sections of the NJCOTVA within this article indicates that the language was not present in the UCOTVA, but was added by the NJLRC.

⁷⁷ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 8 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁷⁸ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE N.J. CERTIFICATE OF TITLE FOR VESSELS ACT § 11 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

The NJCOTVA also incorporates several other key provisions of the UCOTVA, such as those regarding security interests in vessels, transfer of ownership of vessels, terminating statements, and the consequences of minor errors in the application for title or in the certificate of title.⁷⁹

The NJLRC recommended NJCOTVA to the New Jersey state legislature to enhance the existing standards established under the BOCA for future disasters by incorporating a modified version of the uniform law to the state's current provisions, allowing vessel titling to more closely resemble motor vehicle titling in New Jersey.

III. NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT

A. Introduction

The UEVHPA was drafted by the ULC after hurricanes Katrina and Rita struck within weeks of each other in 2005.⁸⁰ When the NJLRC released its Final Report on NJEVHPA, a version of the uniform act that has been modified for use in New Jersey, in September of 2013, sixteen jurisdictions had adopted versions of the UEVHPA, and two had introduced it.⁸¹

⁷⁹ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY CERTIFICATE OF TITLE FOR VESSELS ACT §§ 16-19 (July 18, 2013), available at <http://www.lawrev.state.nj.us/UCOTVA/ucotvaFR071813.pdf>.

⁸⁰ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Introduction, 2 (Sept. 19, 2013), available at www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc; see also, UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1 (Nov. 1, 2007), available at http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸¹ The UEVHPA was enacted in Arkansas, Colorado, Illinois, Indiana, Kentucky, Louisiana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, Tennessee, Texas, and Utah, plus the District of Columbia and the United States Virgin Islands, and was introduced in Mississippi and Pennsylvania. N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Introduction, 2 (Sept. 19 2013), available at www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc. In addition, according to the ULC website, the UEVHPA has been endorsed by a large number of entities whose members are health practitioners. See *Legislative Fact Sheet- Emergency Volunteer Health Practitioners*, UNIF. L. COMM'N. <http://www.uniformlaws.org/LegislativeFactSheet.aspx?title=Emergency%20Volunteer%20Health%20Practitioners> (last visited January 25, 2014).

Prior to the drafting of the UEVHPA, a number of states had enacted emergency management laws that permitted the waiver or modification of licensure standards for health practitioners in emergencies.⁸² The vast majority of the states had also enacted the Emergency Management Assistance Compact (“EMAC”),⁸³ a national interstate mutual aid agreement that allows for the deployment of licensed health practitioners employed by state and local governments to provide emergency services in jurisdictions in which they are not licensed.⁸⁴

In addition, before the creation of the UEVHPA, a federal statutory provision was enacted that allowed licensed health practitioners permanently or temporarily employed by the federal government to respond to disasters and emergencies without complying with the professional licensing requirements of the states in which they provide services.⁸⁵ The federal government also took action to facilitate the use of health practitioners in the private sector in response to emergencies, particularly those mobilized by charitable non-governmental organizations.⁸⁶ Congress enacted legislation that authorized local Medical Reserve Corps to recruit, train, and promote deployment of health practitioners in emergencies.⁸⁷ Funding was provided to state governments to

⁸² See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1 (Nov. 1, 2007), available at http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸³ *Emergency Management Assistance Compact (EMAC)*, FEDERAL EMERGENCY MANAGEMENT AGENCY, available at <http://www.fema.gov/pdf/emergency/nrf/EMACoverviewForNRF.pdf> (last visited April 6, 2014); see, PL 104-321, 110 Stat 3877 (1996).

⁸⁴ See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1 (Nov. 1, 2007), available at http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸⁵ 10 U.S.C. 1094(d)(1)(2012); see also UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1 (Nov. 1, 2007), available at http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸⁶ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1 (Nov. 1, 2007), available at http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸⁷ See 42 U.S.C. § 300hh; see also UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS

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establish Emergency Systems for Advance Registration of Volunteer Health Professionals (“ESAR-VHP Programs”), through which volunteer health practitioners may register in advance to respond to emergencies in the various states and territories.⁸⁸ Unfortunately, none of these federal initiatives resulted in the interstate recognition of licenses issued to volunteer health practitioners.⁸⁹

When hurricanes Katrina and Rita struck, the response to the resulting emergency conditions highlighted deficiencies in the existing federal and state systems intended to allow interstate use of volunteer health practitioners. Although both federal and state laws recognized the need for interstate licensure reciprocity for health practitioners, no comprehensive system existed to link the various public and private programs.⁹⁰ Further complicating the matter was the breakdown of communications caused by the hurricanes, which led to uncoordinated and ineffective response efforts.⁹¹ For example, deployment of volunteers was delayed by the absence of information regarding the operation of state declarations of emergency and concerns about volunteer exposure to civil liability and the availability of workers’ compensation inhibited both recruitment and deployment.⁹²

The 2005 hurricanes demonstrated that the existing systems were inadequate and, in fact, complicated the use of volunteer health practitioners for both the receiving and the deploying states. In an effort to comprehensively address these issues, the ULC Drafting Committee for the UEVHPA was advised by many national groups

ACT, Prefatory note, 1 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁸⁸ See 42 U.S.C. § 247d-7b; *see also* UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 1-2 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; *see also* U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, PUBLIC HEALTH EMERGENCY, <http://www.phe.gov/esarvhp/Pages/about.aspx> (last visited April 6, 2014).

⁸⁹ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 2 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁹⁰ *Id.* at 2.

⁹¹ *Id.*

⁹² *Id.*

and organizations, including most of the entities that helped deploy health practitioners during the hurricane relief efforts.⁹³

B. Policy Objectives

The ULC Drafting Committee focused on a number of major policy objectives in its effort to craft a solution to the problems faced by volunteers and the entities that could benefit from their services during Hurricanes Rita and Katrina.

1. Making Practitioners Available for Rapid Deployment and Protecting Public Health

A primary objective of the UEVHPA and the NJEVHPA is making volunteer health practitioners available for rapid deployment in response to emergency declarations.⁹⁴ The acts endeavor to do so by allowing deployment of volunteers without awaiting affirmative action on the part of a host state, while at the same time preserving a host state's control over the volunteer practitioners within its borders.⁹⁵

Protection of public health and safety was also a significant concern to the ULC drafting committee and its advisors and to the NJLRC.⁹⁶ To address this concern, the NJEVHPA, and the uniform act on which it is based, require that volunteers register, before deployment, with public or private registration systems that are capable of confirming and communicating to states utilizing those systems that the volunteers are properly licensed and in good standing.⁹⁷

Section 2 of the UEVHPA contains definitions for terms used throughout the act and, as such, determines its scope and

⁹³ *Id.* at 4. These groups included: the National Emergency Management Association, the National Governors' Association, the Association of State and Territorial Health Officials, the American Public Health Association, the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, and various sections and committees of the American Bar Association. *See id.*

⁹⁴ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 4 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

⁹⁵ *Id.* at 4-5.

⁹⁶ *Id.* at 5.

⁹⁷ *Id.*

applicability. The NJEVHPA, Section 2, is substantially similar to the UEVHPA Section 2 language.⁹⁸ The definitions section was modified by the NJLRC to include the names of appropriate governmental agencies and cross-references to relevant New Jersey statutes.⁹⁹ For example, “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,”¹⁰⁰ and “host entity” is defined as “an entity operating in New Jersey which uses volunteer health practitioners to respond to an emergency.”¹⁰¹

Both the UEVHPA and the NJEVHPA define the term “health services” broadly, based on a similar definition of the term “health care” from the HIPAA Privacy Rule,¹⁰² to include services related to

⁹⁸ See N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 2 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

⁹⁹ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt., 7 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁰⁰ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 2(c) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc. The Emergency Health Powers Act defines a “public health emergency” as one that:

- a. is caused or is reasonably believed to be caused by any of the following: (1) bioterrorism or an accidental release of one or more biological agents; (2) the appearance of a novel or previously controlled or eradicated biological agent; (3) a natural disaster; (4) a chemical attack or accidental release of toxic chemicals; or (5) a nuclear attack or nuclear accident; and
- b. poses a high probability of any of the following harms: (1) a large number of deaths, illness or injury in the affected population; (2) a large number of serious or long-term impairments in the affected population; or (3) exposure to a biological agent or chemical that poses a significant risk of substantial future harm to a large number of people in the affected population. N.J. STAT. ANN. § 26:13-2 (2013).

Other states, including Louisiana, Colorado and Arkansas, have interpreted the phrase “public health emergency” more expansively to include pandemics of influenza and other diseases that are not necessarily the result of “biological agents.” See N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt., 7 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁰¹ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 2(i) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁰² 45 C.F.R. § 160.103 (2014).

the health or death of individuals or populations, and necessary for emergency response.¹⁰³ At the individual level, “health services include transportation, diagnosis, treatment, and care for injuries, illness, diseases, or pain related to physical or mental impairments.”¹⁰⁴ At the population level, health services “may include the identification of injuries and diseases, and an understanding of the etiology, prevalence, and incidence of diseases, for groups or members within the population.”¹⁰⁵ The term does not encompass services “that do not provide direct health benefits to individuals or populations” such as “administrative tasks, medical record keeping, and transportation of medical supplies.”¹⁰⁶

“Health facility” and “health practitioner” are defined in the UEVHPA and the NJEVHPA to include facilities and practitioners that provide both human and animal services, while “health services” is tailored to include only services provided to human recipients.¹⁰⁷ The NJLRC added to the definition of “veterinary services” in the NJEVHPA to mirror, as closely and appropriately as possible, the scope of services included in the “health services” definition.¹⁰⁸

In the both acts, the term “scope of practice” refers to the extent of the authorization to provide health or veterinary services during an emergency.¹⁰⁹ The scope of practice is established by the state in

¹⁰³ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 8 at 15 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *See* UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2(6)-(7) (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2(f)-(g) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁰⁸ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2(n) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁰⁹ *See* UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 12 at 16 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM’N, FINAL REPORT

which a practitioner is licensed and *primarily* engages in practice, and includes any conditions imposed on the practitioner's authorization to do so.¹¹⁰ To the extent that the state in which an individual primarily engages in practice allows a practitioner with an inactive license to practice, such an individual may also do so in a "host state."¹¹¹

The definition of a "volunteer health practitioner" is critical to the implementation of both the UEVHPA and the NJEVHPA. In both acts, the term refers to an individual who voluntarily provides health or veterinary services during a declared emergency; however, unlike other legal definitions of "volunteer," it does not require the individual to act entirely without compensation.¹¹² The volunteer status of a health practitioner is not compromised by compensation prior to, during, or subsequent to, the declared emergency, as long as the compensation does not arise from a preexisting employment relationship with a host entity.¹¹³ Instead, the determining factor is

RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2(l) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹¹⁰ See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 12 at 16 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2(l) (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc, (emphasis added).

¹¹¹ See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 12 at 16 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2 cmt. 12 at 16 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹¹² See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 15 at 16 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2 cmt. 15 at 16 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹¹³ See UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 2 cmt. 15 at 16 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf. A volunteer may, however, receive compensation arising out of a preexisting employment relationship with the host state if he or she

whether the volunteer freely chooses to provide health or veterinary services in emergency circumstances.¹¹⁴ The NJLRC considered distinguishing between volunteers who received compensation and those who did not for purposes of protection from civil liability—ultimately, the NJLRC chose not to do so.¹¹⁵

2. Registration of Volunteers and Coordination Between Host Entities and Local Agencies

The registration of volunteers is a significant component of the rapid deployment contemplated by both the UEVHPA and the NJEVHPA. The ULC wanted to allow volunteers to register with proven governmental or private organization registration systems located throughout the country, and to facilitate the use of those different registration systems, instead of requiring volunteers to register in an affected host state.¹¹⁶ The first of the NJEVHPA's substantive provisions is Section 3, which states that the NJEVHPA applies 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.”¹¹⁷

Section 4 of the NJEVHPA requires host entities using volunteer health practitioners to coordinate their activities with local agencies to the extent governed by, and in the manner otherwise required by,

does not reside in the state where the emergency is declared and is employed by a disaster relief organization providing services in that state during the time the emergency is declared. *Id.*

¹¹⁴ *Id.*

¹¹⁵ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §2 cmt. at 9 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹¹⁶ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, Prefatory note, 5 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

¹¹⁷ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §3 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc. “New Jersey” was inserted to replace the UEVHPA reference to “this state,” and the phrase “in the state in which they are licensed to practice” was added after “registration system” to eliminate any ambiguity about where such practitioners shall register. *See id.* § 3 cmt., at 9.

state law.¹¹⁸ This is the first of the provisions to address control over volunteers temporarily practicing within a state experiencing a declared emergency. In the NJEVHPA, the names of the relevant New Jersey regulatory agencies were included, and the phrase “or, if the appropriate entity is not available, the Governor,” was added to Section 4 (as well as other sections of the Act) to permit the Governor, who has expanded powers during a state of emergency, to administer the Act if the other named entities are not able to do so due to a breakdown in communication or an extreme catastrophe.¹¹⁹

By allowing the use of volunteer health practitioners following an emergency declaration, without a specific order, directive or request from a government agency, the NJEVHPA and the UEVHPA intended to create a system that can function autonomously, even when communications are disrupted or when public officials are forced to dedicate their time and attention to more pressing matters.¹²⁰ The acts are designed to encourage host entities to utilize the services of volunteer health practitioners in concert, and to discourage host entities and volunteers from acting pursuant to their own judgments when those judgments might conflict with the objectives of the appropriate government agency.¹²¹ Subsection c.(2) was modified in light of the fact that New Jersey is the only state that requires criminal background checks for its health practitioners.¹²²

¹¹⁸ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 4 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

¹¹⁹ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 4 cmt., at 10 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpFR091913.doc.

¹²⁰ *See id.*; UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 4 cmt., at 20 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

¹²¹ *Id.* at 21.

¹²² N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT §4 cmt., at 11 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpFR091913.doc.

c. A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

...

(2) comply with any laws other than this act relating to the management of emergency health or veterinary services,

Section 5 of both acts authorizes the use of each type of registration system “found to be effective in responding to the Gulf Coast Hurricanes of 2005” and various organizations may “establish and operate registration systems without explicit governmental approval because they have demonstrated the resources, competence, and reliability to review and communicate information regarding the professional qualifications of health practitioners.”¹²³ The acts also “recognize[] registration systems operated by state governments or by any other organization granted approval to establish a registration system by any state.”¹²⁴

3. Clarification of the Types of Services Volunteers May Provide and Regulation of Their Activities

The focus of Section 6 of the acts is to alleviate any confusion about the services that may be provided by volunteer health practitioners. In both acts, Section 6 requires volunteers to: (1) limit their practice to activities that they are licensed, properly trained, and qualified to perform; and (2) conform to scope-of-practice authorizations and restrictions imposed by the host states, disaster response agencies and organizations, and host entities.¹²⁵ Section 7 “acknowledges the distinctions between credentialing and privileging, and specifically notes that the act is not intended to interfere with the enforcement or waiver of these requirements during an emergency.”¹²⁶

including N.J.S. 26:13-1 et seq., the Emergency Health Powers Act, except as provided in Section 6 subsection c. below.

¹²³ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 5, at 23 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 5, at 12 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpFR091913.doc.

¹²⁴ *Id.*

¹²⁵ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 6 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf; N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 6 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpFR091913.doc.

¹²⁶ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 7 (Nov. 1, 2007),

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Section 8 of the NJEVHPA addresses the services that may be provided by volunteer health practitioners, and the manner in which those services may be regulated:

a. Subject to subsections b. and c. of this section, a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

b. Except as otherwise provided in subsection c. of this section, this Act does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a practitioner similarly licensed by New Jersey would be permitted to provide the services.

c. The Department of Health, the State Board of Medical Examiners, the Board of Nursing, the State Board of Veterinary Medical Examiners, the Board of Pharmacy, the State Board of Mortuary Science, or, if the appropriate entity is not available, the Governor, may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this Act. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the New Jersey Administrative Code.

d. A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to this Act.

e. A volunteer health practitioner does not engage in unauthorized practice unless the practitioner knows or has reason to know of any limitation, modification, or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner knows or has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide a service if:

(1) the practitioner knows the limitation, modification, or restriction exists or that a similarly licensed

available

at

http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

practitioner in this state would not be permitted to provide the service; or

(2) from all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service.

f. In addition to the authority granted by New Jersey law other than this Act to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

(1) may impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

(2) may impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

(3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

g. In determining whether to impose administrative sanctions pursuant to subsection f. of this section, a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.¹²⁷

This section was revised from the UEVHPA to include the names of the appropriate New Jersey regulatory agencies.¹²⁸ It provides that volunteer health practitioners may only render health services that would be within the scope of practice of a similarly situated practitioner in the host state.¹²⁹

¹²⁷ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 8 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹²⁸ *Id.* § 8 cmt. at 17.

¹²⁹ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, § 8 cmt., at 33 (Nov. 1, 2007), *available at*

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Practitioners licensed in the host state before the emergency must adhere to the state's scope of practice for their profession.¹³⁰ Out-of-state practitioners not licensed in the host state are to be viewed as licensed in that state for the duration of the emergency to help ensure uniformity in the scope of practice among various practitioners from other jurisdictions.¹³¹ A volunteer health practitioner is not, however, permitted to provide services that are outside his or her own home state scope of practice even if a similarly situated practitioner in the host state would be permitted to provide the services.¹³²

The state licensing board and other appropriate state agencies within the host state are authorized to modify or restrict the type of services volunteer health practitioners may provide during an emergency in order to meet patient needs and protect public health.¹³³ Host entities, such as hospitals, are also authorized to restrict the services that volunteer health practitioners may provide, since those entities need to make decisions in real time to allow for an efficient and effective emergency response.¹³⁴

The relation of the acts to other laws of an enacting state is discussed in Section 9, and Section 10 authorizes the enacting state to "adopt regulations reasonably necessary to implement the provisions" of the acts.¹³⁵

4. Limitations on Civil Liability for Volunteers

The focus of Section 11 of the NJEVHPA is whether, and to what extent, volunteer health practitioners and entities deploying, registering, and using the services of those volunteers are responsible for civil claims resulting from a practitioner's act or omission:

http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

¹³⁰ *Id.* at 34.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.* at 35.

¹³⁴ *Id.* at 35-36.

¹³⁵ UNIF. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT, §10, p. 37-38 (Nov. 1, 2007), *available at* http://www.uniformlaws.org/shared/docs/emergency%20volunteer%20health%20practitioners/uevhpa_final_07.pdf.

a. Volunteer health practitioners, as defined in Section 2 of this Act, shall be afforded the same rights, protections, and limitations on liability as are provided by N.J.S. 2A:62A-1 et seq., the “Good Samaritan Act”, or N.J.S. 45:16-9.10 et seq., the “New Jersey Veterinary Good Samaritan Law”, as applicable.

b. The rights, protections, and limitations on liability provided under N.J.S. 2A:62A-1 et seq., or N.J.S. 45:16-9.10 et seq., as applicable, shall apply to health services performed pursuant to the declared emergency whether or not those health services are performed within a health facility.

c. The rights, protections, and limitations on liability provided under N.J.S. 2A:62A-1 et seq., or N.J.S. 45:16-9.10 et seq., as applicable, shall apply to health services provided for the treatment of human or animal ailments, disease, pain, injury, deformity, mental or physical condition.

d. No person, including entities that send volunteers to New Jersey to assist during the declared emergencies, is vicariously liable for damages for an act or omission of a volunteer health practitioner if the practitioner is not liable for the damages under this section.

e. A person that, pursuant to this Act, operates, uses, or relies upon information provided by a volunteer health practitioner registration system is not liable for damages for an act or omission relating to that operation, use, or reliance unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

f. This section does not limit the liability of a volunteer health practitioner for:

- (1) Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct;
- (2) Intentional tort;
- (3) Breach of contract;
- (4) A claim asserted by a host entity or an entity located in this or another state which employs or uses the services of the practitioner.¹³⁶

¹³⁶ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 11 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

References to New Jersey's Good Samaritan Act ("GSA")¹³⁷, and the New Jersey Veterinary Good Samaritan Law ("VGSL")¹³⁸, are included to limit liability of the emergency volunteers to the same extent as provided under those laws.¹³⁹ The Act mentions both the GSA and the VGSL because while they are similar, they are not identical, and professionals are likely to be familiar with the law that currently applies to them.¹⁴⁰

The scope of immunity under the NJEVHPA is specifically expanded to match the parameters of the GSA for services rendered in a health facility. This was done as a result of the New Jersey Supreme Court's determination that the GSA is inapplicable when a volunteer physician gives aid in a health facility.¹⁴¹

The incorporated GSA and the VGSL provisions apply only to out-of-state volunteers, and the Act limits the vicarious liability for host entities and entities from other states in a manner consistent with the limitation on liability afforded by New Jersey law to non-profit corporations and associations organized for religious, charitable, educational, or hospital purposes.¹⁴²

¹³⁷ N.J. STAT. ANN. § 2A:62A-1 et seq. (West 2013).

¹³⁸ N.J. STAT. ANN. § 45:16-9.10 et seq. (West 2013).

¹³⁹ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 11 cmt., at 20 (Sept. 19, 2013), available at www.lawrev.state.nj.us/uevhpa/njevhpafR091913.doc.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* (citing *Velazquez ex rel. Velazquez v. Jiminez*, 172 N.J. 240, 262 (2002)).

¹⁴² *Id.* at 20-21. While N.J.S.A 2A:53A-7 already provided immunity from civil actions for acts or omissions committed by volunteers aiding a "nonprofit corporation, society or association organized exclusively for hospital purposes," by using the term "host entity," the NJEVHPA includes all health facilities used during the emergency, whether or not they are nonprofit facilities. The Good Samaritan Act does not apply to physicians licensed and working in New Jersey during emergencies when they work in a health facility, and, as this is the status quo for these professionals, there was no compelling reason to broaden their immunity. N.J.S. 2A:53A-7 provides immunity from civil actions for acts or omissions committed by volunteers aiding a "nonprofit corporation, society or association organized exclusively for hospital purposes," except for, among other things, "willful, wanton or grossly negligent act[s] of commission or omission, including sexual assault and other crimes of a sexual nature." By using the term "host entity," however, the language of this section includes all health facilities used during the emergency, whether or not they are nonprofit facilities. *Id.*

5. Workers' Compensation Benefits

The question of whether, and to what extent, volunteer health practitioners should receive workers' compensation benefits in the event of injury or death while providing services is addressed in Section 12, which provides for such coverage if the volunteer does not have access to other coverage for injury or death:

b. A volunteer health practitioner who dies or is injured as the result of providing health or veterinary services pursuant to this Act is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under the workers' compensation law of this state if:

(1) the practitioner is not otherwise eligible for such benefits for the injury or death under the workers' compensation laws of this or another state; and

(2) the practitioner is not otherwise eligible for such benefits for the injury or death under an insurance plan in which the practitioner participates.

c. The Division of Workers' Compensation shall adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation law of this state by volunteer health practitioners who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the volunteer health practitioners. To promote uniformity of application of this Act with other states that enact similar legislation, the Division of Workers' Compensation shall consult with and consider the practices for filing, processing, and paying claims by agencies with similar authority in other states.¹⁴³

The term "workers' compensation" is used instead of "workman's compensation," consistent with New Jersey's adoption of the gender-neutral term.¹⁴⁴ This section is also generally consistent with N.J.S.A § 34:15-75, which provides workers' compensation for volunteer firemen, county fire marshals, volunteer first aid or rescue

¹⁴³ N.J. LAW REVISION COMM'N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 12 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhpa/njevhpFR091913.doc.

¹⁴⁴ *Id.* at § 12 cmt., at 21.

squad workers, volunteer ambulance drivers, forest fire wardens or firefighters, members or boards of education, and volunteer special reserve or auxiliary police.¹⁴⁵ Section 12 is significant because volunteers were not traditionally considered “employees” within the meaning of Title 34 and, thus, were not entitled to workers’ compensation.¹⁴⁶ Not all states that enacted the UEVHPA adopted this section.¹⁴⁷ The NJLRC carefully considered the issue and ultimately drafted this provision, making workers’ compensation coverage available to volunteers in the absence of other coverage for injury or death.¹⁴⁸

IV. CONCLUSION

The two Uniform Acts that form the basis of the NJLRC Reports discussed in this article offer states a framework on which they can build as they address the challenge of continually improving their laws to better protect their citizens. As is the practice of the NJLRC, the release of the Final Reports regarding NJCOTVA and NJEVHPA will be followed by outreach to identify members of the legislature who may be interested in sponsoring legislation in these areas.¹⁴⁹

¹⁴⁵ N.J. Stat. Ann. § 34:15-75 (West.2005).

¹⁴⁶ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 12 at 21 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhp/njevhpFR091913.doc. With regard to volunteers not being considered employees, *see, e.g. Veit v. Courier Post Newspaper*, 154 N.J. Super. 572, 573 (App. Div. 1977) (“It is clear that one who volunteers his services and neither receives nor expects to receive payment is not an employee for workers’ compensation purposes.”).

¹⁴⁷ N.J. LAW REVISION COMM’N, FINAL REPORT RELATING TO THE NEW JERSEY EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT § 12 at 22 (Sept. 19, 2013), *available at* www.lawrev.state.nj.us/uevhp/njevhpFR091913.doc.

¹⁴⁸ *Id.* This language, as initially drafted, included a reference to a “private” insurance plan—the word “private” was removed so that individuals who may be covered by a plan through a public employer, for example, are not deemed to be an employee of the State of New Jersey. In addition, the receipt of some compensation by volunteers (*e.g.*, reimbursement of, or allowance for, reasonable expenses, or continuation of salary or other remuneration while on leave) should not destroy the right of a volunteer with no other workers’ compensation coverage from being covered. *Id.*

¹⁴⁹ Since the NJLRC began its work in 1987, it has filed 129 Reports with the Legislature, 47 of which have been enacted into law. 27 N.J. L. REVISION COMM’N, ANN. REP. pt. 1, at 9 (2013), *available at* <https://dspace.njstatelib.org/xmlui/bitstream/handle/10929/30877/NJLRC%202013%20Annual%20Report.pdf?sequence=1> (last visited Feb. 17, 2014).