

# MEMORANDUM

## Hurricane/Tropic Storm Isaac Response Louisiana Declarations of Emergency and Public Health As of August 31, 2012

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### Declaration of Emergency or Disaster

The **Louisiana Homeland Security and Emergency Assistance and Disaster Act** is prescribed by **R.S. 29:721, et seq.** A declaration of an emergency or disaster, pursuant to **R.S. 29:724**, confers the following powers upon the governor:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance would prevent, hinder, or delay necessary action to cope with the emergency.
- (2) Utilize all available resources of the state and local governments as reasonably necessary to cope with the emergency.
- (3) Transfer the direction, personnel, or functions of state agencies to perform or facilitate emergency services.
- (4) Subject to just compensation, commandeer or utilize any private property necessary to cope with the emergency.
- (5) Prescribe routes, modes of transportation, and destination in connection with evacuation.
- (6) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.
- (7) Make provision for the availability and use of temporary emergency housing.

The **Uniform Emergency Volunteer Health Practitioners Act**, pursuant to **R.S. 29-781, et seq.**, prescribes that a volunteer health practitioner who provides health services, pursuant to the Act, shall not be liable for damages for an act or omission in providing such services, except in cases of: “(1) willful misconduct or wanton, grossly negligent, reckless, or criminal conduct, (2) an intentional tort, (3) a breach of contract, (4) a claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the practitioner, or (5) an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle.”

### State of Emergency Declared

Pursuant to R.S. 29:724, on August 26, 2012, Louisiana Governor Jindal:

- Declared a state of emergency that may extend to 9/25/12, unless terminated sooner; and
- Empowered the Director of the Governor’s Office of Homeland Security and Emergency Preparedness to undertake any authorized activity deemed necessary and appropriate.

### Licensed Bed Capacity for Nursing Homes Expanded

Pursuant to R.S. 29:724, on August 27, 2012, Governor Jindal ordered the Department of Health and Hospitals to establish protocols, policies, and procedures permitting a licensed nursing facility, if they accept or receive evacuated residents, to temporarily exceed its licensed bed capacity. Such protocols, policies, or procedures may be set forth outside of strict compliance with the states’ Administrative Procedure Act

### State Vehicles Permitted to Transport Non-State Employees During the Emergency

Pursuant to R.S. 29:724, on August 28, 2012, Governor Jindal ordered:

- Strict compliance with Louisiana Administrative Code Title 34, Part XI, Section 103, and any other rule, regulation, policy or practice of any agency that restricts travel in state-owned vehicles to state employees shall not be followed for the purposes of (1) evacuations; (2) shelter operations; (3) obtaining medication, personal supplies, medical care and other critical services

- Non-state employees may travel in state-owned vehicles during the emergency only for the specific purposes above

### **Emergency Procedures for Conducting State Business**

Pursuant to R.S. 29:721, et seq., Governor Jindal ordered:

- Strict compliance was not required with R.S. 39:1481, et seq., and R.S. 39:1551, et seq., for procurement and contracting
- The Inspector General is authorized to monitor transactions conducted outside the scope of regulatory statutes, orders, rules, and regulations to ensure they are prudently handled
- Cabinet members, statewide elected officials, and department heads are authorized to transfer job assignments, personnel, directions, and functions of departments to facilitate emergency services
- State governmental resources should be used as reasonably necessary to cope with the emergency

### **Declaration of a Public Health Emergency**

A **declaration of a state of a public health emergency**, as prescribed by **R.S. 29:766**, permits the Governor to:

- (1) Suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance would prevent, hinder, or delay necessary action in coping with the emergency.
- (2) Utilize all available resources of state and local governments as needed to cope with the emergency.
- (3) Transfer the direction, personnel, or functions of state agencies to perform or facilitate emergency services.
- (4) Subject to just compensation, commandeer or utilize any private property to cope with the emergency.
- (5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state as needed to preserve life or other disaster mitigation, response or recovery.
- (6) Prescribe routes, modes of transportation, and destination in connection with evacuation.
- (7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
- (8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.
- (9) Make provision for the availability and use of temporary emergency housing.

Pursuant to R.S. 29:771, during a state of public health emergency, health care providers should not be civilly liable, except in the event of gross negligence or willful misconduct, for causing injury or death to any person or damage to any property.

Pursuant to R.S. 29:769, during a state of public health emergency, any board or commission within the LA Department of Health and Hospitals may issue temporary registrations to health care providers licensed, certified, or registered, in another jurisdiction of the United States, if those licenses, certifications, or registrations are current, unrestricted, and in good standing in the issuing jurisdiction.

On August 27, 2012, pursuant to R.S. 29:766, Governor Jindal **declared a public health emergency**, ordering temporary suspension of EMT licensing requirements, thereby allowing EMTs licensed in other states to practice in Louisiana, subject to certain requirements including:

- Submission of photo identification and copy of out-of-state license;
- Individual must not exceed scope of practice applicable to his out-of-state license; and
- Practice in Louisiana must cease upon termination or rescission of the Executive Order

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