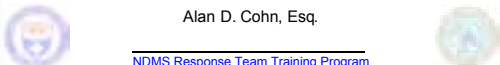


**Disaster Health**

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**Legal Issues and Answers**  
**Part 1**  
**Workers' Compensation and**  
**Medical Licensure**

Alan D. Cohn, Esq.  
NDMS Response Team Training Program



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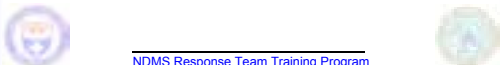
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**Disclaimer**

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- **This learning module is for informational purposes only and does not constitute legal advice.**
- **This learning module is not, and should not be interpreted as, a statement of position by DHHS, FEMA or NDMS.**

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**Disclaimer**

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- **If you need advice about a specific legal situation, consult an attorney:**
  - Your NDMS team sponsor's counsel
  - DHHS Office of General Counsel
  - Your employer's counsel
  - A private attorney

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## Objectives

Upon the conclusion of this session, you should be able to recognize the purpose of and policies governing:

- Workers' Compensation
- Tort Liability
- Medical Licensure
- Professional Liability

as each relates to your rights and responsibilities as an NDMS team member.



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## Background

- Who are we talking about? NDMS teams:
  - DMATs
  - DMORTs
  - VMATs
  - NMRTs
  - Medical Specialty Teams
- Not local teams
  - MMRS
  - Local fire/rescue and EMS providers



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## Background

- When do these issues arise?
  - Activations
  - Training and Exercises



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## Introduction

- Members of NDMS teams are appointed as temporary Federal employees for domestic and international activations.
- Appointment is pursuant to Office of Personnel Management Schedule A, 213.3116(a)(1).
- It is not an extension of local employment.



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## Introduction

- Members of NDMS teams are appointed as volunteers for training.
- United States Code, Title 42, Section 217b



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## Introduction

- Training appointment authority is available only for field training and exercises and simulations and standbys.
  - Not available for classroom training
  - Not available for training not relating to the provision of health care (e.g. DMORT)



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## Workers' Compensation

- **Workers' compensation is a statutory arrangement under which the employer is responsible for paying the costs of occupational injuries and illnesses.**



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## Workers' Compensation

- **In exchange, employees cannot sue employer for occupational injuries and illnesses.**
- **Created by statute and governed by state law.**



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## Workers' Compensation

- **Federal Employees' Compensation Act (FECA)**
  - **The federal statute that creates the workers' compensation system for Federal employees.**
  - **Administered by U.S. Department of Labor.**



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## Workers' Compensation

- Who is covered by FECA?
  - Federal employees
  - Persons acting under the "direction and control" of the Federal government



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## Workers' Compensation

- All injuries should be reported.
- Forms should be filed within 30 days following the injury.
- Once the claim is processed, the employee will receive a case number and the telephone contact number for the U.S. Department of Labor.



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## Workers' Compensation

- When filing a claim, you need to identify whether the injury is traumatic or an occupational disease or illness.



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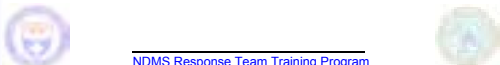
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## Workers' Compensation

- A traumatic injury is a wound or other condition of the body caused by external force, including stress or strain.



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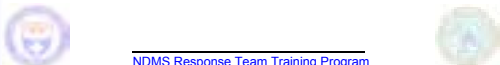
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## Workers' Compensation

- An occupational illness or disease is a condition produced in the work environment over a period longer than one workday or shift.



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## Workers' Compensation

- For more information:
  - NDMS Team Handbook, Section 2.10.1, "Workers' Compensation"
  - U.S. Department of Labor, Office of Workers' Compensation Programs



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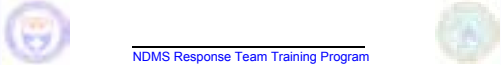
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## Medical Licensure

- **Medical licensure and certification is state-specific.**
  - Each state sets different requirements for medical licensure and certification.
  - National Registry of EMTs is not a national licensure or certification.



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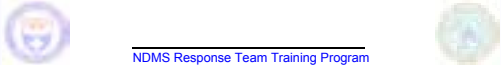
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## Medical Licensure

- **Medical licensure and certification “transfers” during NDMS activation.**
  - During NDMS activation, you are an employee of the Federal government.
  - Pursuant to the Supremacy Clause of the U.S. Constitution, States cannot limit the Federal government’s ability to operate.



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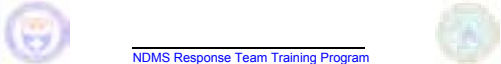
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## Medical Licensure

- **When does the “transfer” apply?**
  - Activation
  - Training
- **When does the “transfer” not apply?**
  - All other activities



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## Medical Licensure

- Medical licensure is each member's responsibility.
- Make sure that your medical license or certification is current in your home state.



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## Medical Licensure

- Make sure that your NDMS credentials are current.
- Do not act outside of the scope of your licensure or certification.



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