

## Executive Overview

### Key Emergency Response Volunteer Concepts

This document provides a brief overview of important concepts related to emergency response volunteers. Additional details on these and other concepts are contained in the *ASTHO Emergency Volunteer Toolkit* fact sheets and other ASTHO toolkits.

#### Differentiating Volunteers

Volunteers are an integral part of the emergency and disaster response system. Emergency response volunteers may be health professionals (e.g., physicians, nurses, etc.) or non-health professionals. Health professional volunteers are often referred to as volunteer health professionals (VHPs). The distinction between VHPs and non-health professional volunteers is important because federal and state law may apply to one but not the other. Generally, emergency response volunteers are recruited, trained, and mobilized through a registration and verification system; others may volunteer during an emergency without prior registration and verification.

#### Volunteer Registration and Verification of Credentials, Licenses, and Privileges

The systems for recruiting, training, and mobilizing volunteers vary among states, localities, and organizations. Registration databases can be used to track volunteer information, verify volunteer credentials, and ensure the competency of volunteers. These systems may also notify volunteers of a disaster or emergency and help with volunteer mobilization. The Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) provides a national network of state registration and verification systems.

Volunteer verification systems ensure that VHPs are licensed or privileged health professionals, thereby guaranteeing that the VHPs are qualified and competent to provide health services during an emergency. Licensing and privileging requirements for healthcare professionals vary from state to state and by healthcare facility. Licenses typically only apply within the state where they are granted. However, reciprocity agreements and laws allowing waiver of state licenses enable VHPs to practice in other states during emergencies.

#### Volunteer Liability

Volunteers and the entities that recruit, deploy, and manage them are subject to liability. A volunteer is legally responsible for his or her own acts or omissions and can face civil tort liability or criminal penalty. Agencies, organizations, and entities that recruit, deploy, and manage volunteers may also be liable for tortious acts and can be vicariously liable for a volunteer's acts or omissions. A tort occurs when a person intentionally or unintentionally causes harm to another person or property. Intentional torts occur when a person or property is purposefully harmed. Unintentional torts occur when a person or property is inadvertently harmed.

Negligence, an unintentional tort, occurs when a volunteer (1) has a duty to another, (2) breaches that duty through an act or omission to act, and (3) directly causes harm or damages (e.g., medical malpractice, failure to plan or prepare, or breach of privacy and confidentiality). Gross negligence involves willful or wanton conduct and arises if the act or omission is so reckless that it demonstrates disregard for whether injury or harm will occur.

#### Volunteer Liability Protection and Immunity

Immunity is a legal protection against liability and may be asserted as a defense against tort claims. Granting immunity ensures that there are adequate numbers of volunteers to participate in emergency preparedness

and response efforts. A volunteer's protection from liability often depends on the nature of the services provided and the emergency response program through which the volunteer is deployed.

Governmental or sovereign immunity holds that a government and its employees and agents cannot be sued for injuries that occur in the course of their official duties. Governmental immunity may be restricted by state and federal tort claims laws that allow governments to be sued within certain limitations or may be waived in certain cases (e.g., with the commission of gross negligence, criminal acts, or a violation of constitutional rights).

A number of federal and state laws provide immunity and other liability protections for volunteers, especially VHPs, for their roles in preparing for or responding to an emergency. Some federal laws can confer federal immunity for activities conducted by state or local actors. State emergency authority laws may also provide liability protections for volunteers. Mutual aid agreements can also provide a source of immunity if volunteers are deemed to be state employees eligible for governmental immunity.

### **Workers Compensation and Disability Benefits**

Those who respond to emergencies may be injured or killed during their deployment. Workers' compensation, disability, and death benefits may be available to those who respond to emergencies. Workers' compensation programs exist at both the federal and state level. Each program is unique, and the coverage requirements and the types and amounts of benefits vary by jurisdiction. Workers' compensation is based on an employee-employer relationship. Therefore, an emergency volunteer would need to somehow be deemed an "employee" under the law for workers' compensation to apply. Other considerations that can affect the determination of whether a person is eligible for workers' compensation include: determining which state law applies in an interstate deployment; who is covered under a state's workers' compensation law; who is the "employer" during the deployment; and what scope of activities during the deployment are covered.

A volunteer may also have access to disability benefits or paid sick leave when an employer offers them or if the disability insurance policy covers non-work (i.e., volunteer) related injuries. Personal life insurance tends to not cover emergency volunteer activities. Supplemental life and disability insurance that covers emergency response activities may be available for the volunteer to purchase.