

Executive Overview

Key Federal and State Laws Regarding Emergency Volunteers

This document provides a brief overview of key federal and state laws governing or affecting emergency volunteer activities. This alphabetical list does not contain all relevant or controlling federal and state authorities, but highlights items regarding emergency volunteer issues. Additional information on these authorities is contained in other ASTHO Emergency Volunteer Toolkit fact sheets.

Emergency Management Assistance Compact (EMAC)¹ – A congressionally authorized interstate mutual aid compact that provides a mechanism through which states can provide assistance to other states during emergencies. All states have joined EMAC by adopting model language into their state’s statutes. EMAC addresses reimbursement, liability, compensation, and licensure issues.

Federal Employees Compensation Act (FECA)² – Provides workers’ compensation to civilian federal employees who are injured or killed during the course of their duties. Volunteers who may deploy in states under federal programs like the National Disaster Medical System or are otherwise deemed to be federal employees are covered under FECA.

Federal Tort Claims Act (FTCA)³ – Allows individuals to seek compensation when they are injured by federal employees and volunteers acting within the scope of their employment or volunteer service. The act immunizes federal government volunteers from tort liability (except in certain instances); the federal government assumes a volunteer’s role as defendant in a lawsuit against the volunteer.

Good Samaritan Laws – State laws that protect volunteers who are near an emergency event and respond to help victims. Generally, Good Samaritan statutes cover the spontaneous rendering of aid, reduce the standard of care that would normally be required of the person supplying aid to account for exigent circumstances, and excuse violations of state licensure requirements. The laws provide limited immunity to protect volunteers from civil liability for ordinary negligence and do not cover egregious conduct. State laws vary with regard to individuals and activities that are covered. Some state laws apply to entities and organizations that assist in emergencies.

Interstate Civil Defense and Disaster Compact (ICDDC)⁴ – A state mutual aid agreement providing licensure reciprocity for health professionals and others. Member states recognize licenses, certificates, or other permits issued by any other state during emergencies and disasters. Some states are parties to both EMAC and ICDDC.

Nurse Licensure Compact (NLC)⁵ – An agreement entered into by 24 states aimed at increasing cooperation and information exchanges between states regarding nursing licensure. Under NLC, one state’s license to practice nursing will be recognized by all member states that authorize multistate licenses.

Public Readiness and Emergency Preparedness Act (PREP Act)⁶ – The act authorizes the HHS secretary to issue a declaration that provides immunity from tort liability for claims of loss caused by countermeasures against diseases or other threats of public health emergencies. The act covers persons and entities involved in the manufacture, testing, distribution, administration, and use of covered countermeasures. A PREP Act declaration is different from and independent of other federal emergency declarations. A separate emergency

declaration under Public Health Service Act Section 319 or another statute is not required for PREP Act immunities to take effect.

State Claims Acts – Laws that limit state sovereign immunity by establishing procedures for making claims against the state, which are overseen by a special claims court. The claims courts are empowered to decide claims, limit the amount of damages, and find exceptions to liability.

State Emergency Management Acts – Provide for planning, mitigation, response, and recovery from natural and human-made disasters. Laws vary among states and may include protection from liability, relaxed licensing standards, and expanded scope of practice for volunteers upon a state or local declaration of disaster. These statutes can extend governmental employees' rights and immunities to volunteers performing work that is eligible for coverage under governmental immunity and state tort claims acts. The provisions can be broad or duplicative of other provisions in state law.

State Tort Claims Acts – Laws that either abolish state sovereign immunity generally and provide immunity in only specific circumstances, or preserve sovereign immunity generally but identify certain exceptions in which immunity is waived. They allow an individual to seek compensation when he or she is injured by a state employee or volunteer acting within the scope of employment or responsibility.

State Workers' Compensation Laws – Enacted and administered by states and primarily funded by employers. The coverage requirements and the types and amounts of benefits vary from state to state. Some states exempt certain types of organizations or activities from coverage under workers' compensation programs, including employees of nonprofit, charitable, or religious institutions, employees of small businesses under a specified size, and state and local government employees. Coverage of volunteers can depend on whether they are considered "employees" and whether state laws expressly exclude coverage for volunteers.

Uniform Emergency Volunteer Health Practitioners Act (UEVHPA)⁷ – A uniform law that states may adopt in whole or part. UEVHPA allows volunteer health professionals (VHPs) to register through governmentally established registration systems (e.g., ESAR-VHP or Medical Reserve Corps), or with other registration systems. It protects VHPs from civil liability and allows for liability protection for organizations and entities. UEVHPA does not immunize VHPs for acts that are willful, wanton, or grossly negligent in nature, or that occur while operating motor vehicles. The law also provides that a VHP may elect to be deemed a host state's employee for the purpose of receiving workers' compensation benefits when the VHP is not otherwise eligible for workers' compensation benefits. UEVHPA liability protections become effective upon the state's emergency declaration.

Volunteer Protection Act (VPA)⁸ – VPA provides immunity from ordinary negligence to volunteers of nonprofit organizations or governmental entities. It does not cover gross negligence, willful misconduct, recklessness, or acts committed by the volunteer while intoxicated or operating a motor vehicle. It does not cover organizational entities of any type or persons volunteering at private businesses. VPA does not require a declared emergency for its protections to apply.

Additional Resources

¹ National Emergency Management Association. EMAC. Available at <http://www.emacweb.org/>. Accessed on 9-20-2012.

² United States Department of Labor. FECA. Available at <http://www.dol.gov/compliance/laws/comp-feca.htm>. Accessed on 9-20-2012.

³ The Law, Science & Public Health Program at Louisiana State University. FTCA. Available at <http://biotech.law.lsu.edu/cases/immunity/ftca.htm>. Accessed 9-20-2012.

⁴ National Center for Interstate Compacts. ICDDC. Available at <http://apps.csg.org/ncic/Compact.aspx?id=34>. Accessed on 9-20-2012.

⁵ National Council of State Boards of Nursing. NLC. Available at <https://www.ncsbn.org/nlc.htm>. Accessed on 9-20-2012.

⁶ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response. PREP Act. Available at <http://www.phe.gov/preparedness/legal/prepact/Pages/default.aspx>. Accessed on 9-20-2012.

⁷ Uniform Law Commission. UEVHPA. Available at <http://www.uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>. Accessed on 9-20-2012.

⁸ Volunteer Protection Act of 1997, Pub. L. No. 105-19. Codified at 42 U.S.C. §§ 14501. Available at <http://www.gpo.gov/fdsys/pkg/PLAW-105publ19/pdf/PLAW-105publ19.pdf>. Accessed 9-20-2012.