

## Volunteer Protection Acts and Good Samaritan Laws

### Fact Sheet

#### Overview

Volunteer protection acts, or similar provisions, can be found at the federal and state levels. These laws limit the civil liability of certain organizations' and entities' volunteers under specific circumstances. The protections that the laws provide are not limited to emergency response volunteers, but rather apply to all volunteers who meet the legal requirements. Good Samaritan laws are found at the state level and can provide liability protection to volunteers who are near an emergency event and respond to help victims. Some Good Samaritan laws apply to entities or organizations that assist in an emergency response.

#### Federal Volunteer Protection Act

The federal [Volunteer Protection Act \(VPA\)](#)<sup>1</sup> provides protection to nonprofit organizations' and governmental entities' volunteers for harm caused by their acts or omissions on behalf of the organization or entity. The act does not require that an emergency declaration be in place for its protections to apply.

VPA applies to an uncompensated volunteer for acts of ordinary negligence committed within the scope of the volunteer's responsibilities. If the volunteer's responsibilities are covered by licensure laws, the volunteer must be properly licensed, certified, or authorized by the appropriate authorities as required by the law in the state in which the harm occurred.

Protection under VPA does not apply if the volunteer engages in willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual(s) harmed by the volunteer. VPA also does not apply if the volunteer causes harm by operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires its operator to possess an operator's license or maintain insurance.

Volunteers of businesses (including for-profit hospitals) and the organizational entities that use the volunteers (including nonprofit or governmental organizations) are not protected by VPA. For example, a health professional who volunteers at a for-profit private hospital or receives compensation for volunteering at a nonprofit hospital is not protected from liability by VPA. There may, however, be other laws that provide this volunteer with immunity.

VPA does not affect any legal actions taken by the volunteer's organization against the volunteer.

#### State General Volunteer Protection Statutes

All states have some statutory protections for volunteers. The federal VPA (see above) preempts state laws that are less protective than VPA, but allows states to pass laws with greater protections. Generally, like VPA, these statutes do not require that an emergency declaration be in

#### Practice Notes

##### VPA applies to:

- Uncompensated volunteers.
- Volunteers properly licensed, certified, or authorized by state law.
- Volunteers of nonprofit organizations or governmental entities.
- Acts within a volunteer's scope of responsibility.
- Acts of ordinary negligence.

##### VPA does not apply to:

- Willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual(s) harmed by the volunteer.
- Harm caused by operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires its operator to possess an operator's license or maintain insurance.
- Volunteers for businesses.
- The organization or entity utilizing the volunteer.

place, apply to uncompensated individual volunteers for nonprofit and governmental entities only, and apply only to individual persons and not to organizations. However, because each state's approach is different, it is important to identify what actors, actions, and liability protections are covered under a specific state's statute and those that are not.

### **State Healthcare Volunteer Protection Statutes**

Many states have adopted specific liability protections for volunteer health professionals (VHPs) in addition to or to supplement their emergency powers and general volunteer protection statutes. VHP protection statutes confer immunity to volunteers from civil liability provided that certain conditions are met.

### **Uniform Emergency Volunteer Health Practitioners Act (UEVHPA)**

Some states have adopted the [Uniform Emergency Volunteer Health Practitioners Act \(UEVHPA\)](#).<sup>2</sup> Under UEVHPA, VHPs can register through governmentally established registration systems (e.g., ESAR-VHP or Medical Reserve Corps), or with registration systems established by disaster relief organizations, licensing boards, or national or multistate systems that associations of licensing boards or health professionals have established.

UEVHPA provides two alternatives for VHP immunity. Alternative A offers clear immunity to VHPs for acts that occur while providing services during an emergency. Alternative B essentially replicates the existing liability protections found in the federal VPA to the specific volunteers addressed in UEVHPA. UEVHPA does not immunize VHPs for acts that are willful, wanton, or grossly negligent in nature, or that occur while operating motor vehicles. UEVHPA liability protections become effective upon the state's emergency declaration.

### **Good Samaritan Laws**

Every state has a Good Samaritan statute, but the actors eligible for coverage and qualifying circumstances under which care is delivered varies.<sup>3</sup> Generally, Good Samaritan statutes cover the spontaneous, uncompensated rendering of aid, reduce the standard of care that would normally be required of the person supplying aid (e.g., a doctor or nurse helping a victim at the scene of an accident) to account for the exigent circumstances in which the care is being delivered, and excuse violations of state licensure requirements. No formal emergency declaration or activation of the volunteer as part of an emergency response force is required for Good Samaritan liability protections to attach.

These laws generally do not apply to employees on duty (e.g., EMTs) or those with a pre-existing duty to provide care. Also, pre-arranged or compensated volunteers and actions that occur in a hospital may not qualify for the liability protections. Good Samaritan laws provide limited immunity from civil liability for ordinary negligence to protected volunteers; they do not provide payment for defense costs, judgments, or settlements. As with other volunteer protection statutes, Good Samaritan laws do not cover gross negligence or wanton misconduct.

### **Good Samaritan Entity Liability Statutes**

Liability protections for organizations and entities are generally less robust than they are for individual volunteers. However, some entity protections exist and more have been developed in recent years in recognition of the important role that businesses and nonprofit organizations play during emergencies. For example, in 2008 Georgia extended the protections of its Good Samaritan law to any natural person, association, organization, or private entity.

The [Public/Private Legal Preparedness Initiative](#) is an effort to extend Good Samaritan liability protections to entities. Some states extend Good Samaritan liability protection to cover business and nonprofit entities acting in good faith during an emergency; link entity liability protection to a gubernatorial emergency declaration; apply coverage only where emergency activities are conducted in coordination with the state; and include

coverage for pre-event planning and training activities that take place prior to the declared emergency. UEVHPA's alternative A also provides liability protections to entities and organizations that assist in emergencies.

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*Sources*

<sup>1</sup> 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.

<sup>2</sup> Uniform Law Commission. UEVHPA. Available at <http://www.uniformlaws.org/Act.aspx?title=Emergency%20Volunteer%20Health%20Practitioners>. Accessed on 9-20-2012.

<sup>3</sup> Health Resources and Services Administration. "Emergency System for Advance Registration of Volunteer Health Professionals (ESAR-VHP) — Legal and Regulatory Issues." Appendix D. Available at <http://www.publichealthlaw.net/Research/PDF/ESAR%20VHP%20Report.pdf>. Accessed on 9-20-2012.

This document was compiled from June-December 2011 and reflects the laws and programs current then. It reflects only portions of the laws relevant to public health emergencies and is not intended to be exhaustive of all relevant legal authority. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor PI Elliott, Logan Circle Policy Group LLC.