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Frequently Asked Questions (FAQ) About Legal and Regulatory Issues Pertaining to the *MI Volunteer Registry*

Disclaimer: *This FAQ is for informational purposes only. Nothing within this FAQ is meant to provide specific legal guidance or advice to any person. Rather, this FAQ is meant to serve as an assessment tool for individuals who are considering participation in the MI Volunteer Registry. Readers should consult with their own attorneys about these laws and their applicability to particular situations or organizations.*

Introduction: The *MI Volunteer Registry* is a system for the advance registration of health professionals who volunteer to provide health services during a declared state of disaster or emergency. The objectives of this system are to:

- Identify a qualified and competent health volunteer force
- Enable efficient and effective emergency operations
- Allow sharing of health volunteers across state lines
- Establish clear protections for health volunteers, hospitals and others.

The registry is an electronic database that enables authorities to verify a volunteer's identity, professional licenses, credentials, accreditations, and hospital privileges before and during an emergency situation. *MI Volunteer Registry* is the State of Michigan's part of a national system authorized by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 USC 247d-7b).

Joining the registry does not obligate a person to serve or impose any personal liability; neither does it confer any compensation or other benefits. Emergency management personnel will use the registry to identify, contact, and deploy volunteers as needed. By registering in advance of a disaster or emergency, health professions volunteers will expedite emergency response.

Legal authority, liability and protection for individual volunteers and organizations utilizing volunteers will vary depending on a variety of factors, including but not limited to:

- The jurisdictions involved
- Whether or not there is a declared state of disaster or state of emergency
- The volunteer's profession
- The volunteer's affiliation and employment status, and
- To whom and in what setting the volunteer is providing services.

Volunteers often serve in a limited capacity, for a limited period of time, and in places or positions in which they may not normally practice. Therefore, health professions volunteers should be aware of federal, state and local emergency powers and how these powers may affect their liability, licensure and credentialing. Volunteers should not self-deploy to disaster areas. For their own protection, it is imperative that health professions volunteers work through governmental agencies or recognized nonprofit disaster relief organizations.

At this stage in its development *MI Volunteer Registry* is intended for health professions volunteers who are willing to render aid or perform health services on a temporary basis without pay or remuneration.

Q1. Are there provisions for compensating me for time lost from work or other expenses?

A1. At this point there are no provisions for compensating volunteers. Some employers support employee volunteer and community service activities. Check with your own employer for details.

Q2. What protection might be available for volunteers against liability lawsuits arising out of the volunteer work?

A2. In Michigan, volunteers may be protected from civil liability through the following statutes. However, they do not protect against harm caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

Governmental Immunity Act, MCL 691.1401 to 691.1419 – While acting on behalf of a governmental agency, a volunteer is immune from tort liability if the volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority, and the governmental agency is engaged in the exercise or discharge of a governmental function. This Act does not provide immunity for medical treatment or care to a patient, with limited exceptions. However, other laws discussed in this section may apply to provide protection from liability for medical care.

Liability of Certain Persons for Emergency Care, MCL 691.1501 to 691.1507 –

Commonly referred to as *The Good Samaritan Act*, this statute

- Protects certain licensed health professionals from civil liability when providing emergency care without compensation at the scene of an emergency, provided there was no provider/patient relationship established before the emergency.
- This statute covers physicians, physician's assistants, registered professional nurses, and licensed practical nurses.
- Assisting to respond to a life threatening emergency in a hospital or other licensed medical care facility when the health professional's duties do not require responding to such emergencies.
- Assisting the government with a search and rescue operation

Emergency Management Act, MCL 30.401 to 30.421 – This statute provides general immunity from liability for *Disaster Relief Forces* while on duty. During a declared state of disaster additional protections are provided to certain health professionals who render services. Moreover, the Director of the Michigan State Police may issue a directive relieving volunteers of liability except for gross negligence.

Public Health Code, MCL 333.1101 to 333.25211 – Several sections of the Public Health Code grant immunity from liability:

- **Health Departments** – The director or an employee or representative of the state health department or a local health department is not personally liable for damages sustained in the performance of departmental functions, except for wanton and willful misconduct (MCL 333.2228 and 333.2465).
- **Immunization Programs** – When participating in an approved mass immunization program in this state, health personnel cannot be held liable except for gross negligence or willful and wanton misconduct (MCL 333.9203).
- **Emergency Medical Services Personnel** – Immunity from liability is provided except for gross negligence or willful misconduct (MCL 333.20965).

Volunteer Protection Act of 1997, Public Law 105-19, 42 USC Chapter 139 – Volunteers may also be protected from civil liability under this federal law.

Public Readiness and Emergency Preparedness (PREP) Act, Part of the Public Health Service Act, 42 USC Sec. 247d-6d - Provides broad and strong protection to individuals and entities that are engaged in activities related to the use of covered pharmaceutical countermeasures. This includes, for example, entities and individuals involved with manufacturing, labeling, distributing, packaging, marketing, selling, purchasing, donating, dispensing, prescribing, administering, licensing, or using of such countermeasures. Requires a PREP Act Declaration from the Secretary of Dept of Health & Human Services. To be protected from liability, would need to act consistent with the terms of the PREP Act declaration. PREP Act declarations, and FAQs that explain the PREP Act, can be found at <http://www.hhs.gov/disasters/discussion/planners/prepact/index.html> Protection under a PREP Act declaration pre-empts state law, which means state law cannot provide less protection for entities or individuals covered by a PREP Act declaration. Permits a lawsuit to be filed in the U.S. District Court for the District of Columbia for “willful misconduct”, which the plaintiff must prove by “clear and convincing evidence.”

For Government Employees:

Interstate Emergency Management Assistance Compact, MCL 3.991 to 3.1004 – Michigan is a member of this multi-state compact, which is commonly referred to as **EMAC**. Individuals who are deployed to other states under the compact are immune from civil liability except for willful misconduct, gross negligence, or recklessness. Deployment under the compact is through the EMAC Coordinator at the Michigan State Police Emergency Management Division.

Q3. If I become injured or sick as a result of the volunteer work, are there any provisions for my medical care and related expenses?

A3. *MI Volunteer Registry* is simply a database; it does not provide health or disability benefits. Organizations that utilize volunteers might provide such benefits, but that will vary on a case-by-case basis. Workers’ compensation laws cover employees. Therefore, unpaid volunteers are not usually covered by workers’ compensation.

If a person is deployed under EMAC, the National Disaster Medical System, or other governmental programs, and becomes a government agent or employee, then the person **may** become eligible for workers’ compensation benefits.

Q4. Are there any eligibility restrictions for volunteering?

A4. All health professionals are encouraged to enroll in *MI Volunteer Registry*. When a volunteer’s services are needed, an authorized user of the registry will contact the volunteer to inquire about availability and willingness to serve. Depending on the circumstances, conditions could require certain skills, abilities, or other criteria.

Q5. What precautions are being taken by the State to protect health volunteers against disclosure of personal information contained in the MI Volunteer Registry?

A5. Only authorized system administrators will have access to your information. The registry is not open to the public for any purpose. The system is designed so the database of volunteers can be queried for the specific health professions needed following an emergency incident.

Additional Resources: Before deployment, health professions volunteers are advised to consult with their own legal counsel, employers or sponsors. More information is available at the following websites:

U.S. Department of Health and Human Services (DHHS), Office of the Assistant Secretary for Preparedness and Response (ASPR): <http://www.phe.gov/preparedness/Pages/default.aspx>

U.S. Department of Health and Human Services (DHHS), Office of the Assistant Secretary for Preparedness and Response (ASPR), Emergency System for Preparedness and Response (ESAR-VHP) Employer page: <http://www.phe.gov/esarvhp/pages/employers.aspx>

Medical Reserve Corps: <http://www.medicalreservecorps.gov>

American Red Cross: www.redcross.org