



MRC Liability



Federal Volunteer Protection Act, 42 U.S.C. § 14501 et seq. Provides *immunity from liability for negligence* for people who volunteer for a government entity or a non-profit organization. The volunteer is not liable to a person they harm, ***BUT*** the organization that the volunteer is working under may still sue the volunteer personally for negligence. Volunteers must be properly licensed, certified, or authorized, and must act within the scope of his/her authority in the organization. Negligence arising from operation of a motorized vehicle is NOT covered. Protection only extends to UNPAID volunteer. ***There is NO Workers' Compensation protection*** for MRC volunteers.

Good Samaritan Laws These state laws *protect health care workers from liability* when they render *emergency care or treatment*. ***Coverage depends on there being an emergency***. The emergency need not be declared but it is not clear whether the concept of "emergency" extends beyond an immediate, urgent need. Care must be provided in good faith. ***There is NO Workers' Compensation protection in most situations***.

Massachusetts Tort Claims Act M.G.L. c. 258: Public employees are *protected from liability for negligent acts or omissions if they acted within the scope of their employment*. Ask your Selectboard or Mayor to appoint you and all the other MRC Volunteer members as **Special Municipal Employees**. This will provide additional liability coverage for MRC Volunteers when acting under the direction and control of the MRC during a an emergency exercise or response. MRC Volunteers should contact their towns to explain the benefits of this protection for them.

State Emergency Declarations: During a large scale emergency, there will most likely be special legislation or Executive Orders to help assure volunteers that they will have liability protection, but not likely Workman's Compensation Insurance.

Volunteers and Liability

LIABILITY PROTECTIONS FOR MRC AND OTHER VOLUNTEERS

Depending on your role and responsibilities, you may be protected by one or more of the following.

1. Federal Volunteer Protection Act (42 U.S.C. § 14501)

You have immunity from (no liability for) negligence if you volunteer for a nonprofit organization or governmental entity. No need for federal funding.

You must act within the scope of your responsibilities in the organization.

You must be properly licensed, certified, or authorized to act. Protection is not limited to emergencies.

You are not protected if the harm occurred through your operation of a motorized vehicle.

You are not protected for reckless misconduct or gross negligence.

2. Doctors and Nurses Working in Public Health Programs (Mass. General Laws, chapter 112, § 12C)

You have immunity from liability in any civil suit for damages if you are a physician or nurse “administering immunization or other protective programs under public health programs” (government programs).

You can be paid or unpaid.

Protection is not limited to emergencies.

3. Protection for EMS Personnel (Mass. General Laws, chapter 111C, § 21)

Law protects certified, accredited, or approved EMS personnel when they are on duty and in good faith render first aid, CPR, transportation, or other emergency medical services.

4. Good Samaritan Laws (Various provisions of Mass. General Laws)

Laws protect physicians, nurses, physician assistants, and respiratory therapists from liability when they give emergency care or treatment other than in the ordinary course of practice, in good faith and without charging a fee.

Another law protects any person, whose regular duties do not include the provision of emergency medical care, from liability when they attempt to render emergency care in good faith and without compensation. They are not protected from acts or omissions that are grossly negligent, willful, or wanton.

5. Protection for Public Employees (Mass. Tort Claims Act, General Laws, chapter 258)

MRC volunteers are ONLY considered public employees when they are so designated by a government entity, e.g., special (unpaid) municipal employees appointed by the select board or city council.

Volunteers must be under the direction and control of the government entity and must act within the scope of their official duties. There must be adequate supervision and clear work assignments.