

Wisconsin-Specific Liability Protections for Volunteers

<p>Wisconsin Emergency Management Statutes</p>	<p>(Wis. Stat. § 166.03 (10)). No person who provides equipment, materials, facilities, labor, or services is liable for the death of or injury to any person or damage to any property caused by his or her actions if the person did so under the following conditions: (1) under the direction of the governor, the adjutant general, the governing body, chief or acting chief executive officer, or head of emergency management services of any county, town, municipality, or federally recognized American Indian tribe or band in this state, the department of health and family services if that department is the lead agency, or the local health department if it is acting as an agent of the department of health and family services; (2) in response to enemy action, a natural or man-made disaster, or a federally declared disaster, or a federally declared state of emergency or during a state of emergency declared by the governor; (3) the act or omission did not involve reckless, wanton, or intentional misconduct.</p> <p>(Wis. Stat. § 166.03 (8)). Volunteer emergency management workers are employees of the emergency management unit with whom they are duly registered in writing for purposes of worker's compensation benefits. Emergency management workers shall be indemnified by their sponsor against any tort liability to 3rd persons incurred in the performance of emergency management activities while acting in good faith and in a reasonable manner.</p> <p>(Wis. Stat. § 166.09). Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the state or any of its political subdivisions a license or privilege, or otherwise permits the state or any of its political subdivisions to inspect, designate and use the whole or any part thereof for the purpose of sheltering persons during an actual, impending, mock, or practice attack shall, together with his or her successors in interest, if any, not be civilly liable for negligently causing the death or injury to any person on or about such real estate or premises under such license, privilege, or permission or for loss or damage to the property of such person, if the owner or controller has made known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of said real estate or premises which might possibly result in death or injury or loss of property to any person making use thereof.</p>
<p>Good Samaritan Law</p>	<p>(Wis. Stat. § 895.48 (1)). Any person who renders emergency care at the scene of any emergency or accident shall be immune from civil liability for his or her acts or omissions in rendering such emergency care. This immunity does not extend when employees trained in health care or health care professionals render emergency care for compensation and within the scope of their usual and customary employment.</p>
<p>Athletic Events</p>	<p>(Wis. Stat. § 895.48 (1m)). Any licensed physician, athletic trainer, chiropractor, dentist, emergency medical technician, physician assistant, registered nurse, certified first responder, massage therapist, or body-worker who renders voluntary health care to a participant in an athletic event or contest sponsored by a nonprofit corporation, a private school, a public agency, or a school, is immune from civil liability for his or her acts or omissions in rendering that care if all of the following conditions exist: (1) the health care is rendered at the site of the event or contest, during transportation to a health care facility from the event or contest, or in a locker room or similar facility immediately before, during or immediately after the event or contest; (2) no compensation is received for the health care, other than reimbursement for expenses. This does not apply to health care services provided by a volunteer health care provider.</p>
<p>Automated External Defibrillators</p>	<p>(Wis. Stat. § 895.48 (4)). The person who renders the care, the owner of the automated external defibrillator, the person who provides the defibrillator for use (if the person ensures that the defibrillator is maintained and tested in accordance with any operational guidelines of the manufacturer), and the person who provides training in the use of the defibrillator to the person who renders care are immune from civil liability for the acts or omission of a person in rendering good faith emergency care by use of an automated external defibrillator to an individual who appears to be in cardiac arrest. This immunity does not cover emergency medical technicians or first responders. The immunity does not extend to a person whose act or omission constitutes gross negligence or a health care professional who renders emergency care for compensation and within the scope of his or her usual and customary employment.</p>

Wisconsin Liability Protections for Local Governments, Businesses, and Organizations

Emergency Management Statutes

(Wis. Stat. § 166.03 (10)). No person who provides equipment, materials, facilities, labor, or services is liable for the death of or injury to any person or damage to any property caused by his or her actions if the person did so under the following conditions: (1) under the direction of the governor, the adjutant general, the governing body, chief or acting chief executive officer, or head of emergency management services of any county, town, municipality, or federally recognized American Indian tribe or band in this state, the department of health and family services if that department is the lead agency, or the local health department if it is acting as an agent of the department of health and family services; (2) in response to enemy action, a natural or man-made disaster, or a federally declared disaster, or a federally declared state of emergency or during a state of emergency declared by the governor; (3) the act or omission did not involve reckless, wanton, or intentional misconduct.

(Wis. Stat. § 166.03 (8)). (d) Employees of municipal and county emergency management units are employees of the municipality or county to which the unit is attached for purposes of worker's compensation benefits. Employees of the area and state emergency management units are employees of the state for purposes of worker's compensation benefits. Volunteer emergency management workers are employees of the emergency management unit with whom they are duly registered in writing for purposes of worker's compensation benefits. An emergency management employee or volunteer who engages in emergency management activities upon order of any echelon in the emergency management organization other than that which carries his or her worker's compensation coverage shall be eligible for the same benefits as though employed by the governmental unit employing him or her. Any employment which is part of an emergency management program including but not restricted because of enumeration, test runs and other activities which have a training objective as well as emergency management activities during an emergency proclaimed and which grows out of, and is incidental to, such emergency management activity is covered employment. Members of an emergency management unit who are not acting as employees of a private employer during emergency management activities are employees of the emergency management unit for which acting.

(e) Emergency management workers shall be indemnified by their sponsor against any tort liability to 3rd persons incurred in the performance of emergency management activities while acting in good faith and in a reasonable manner.

(f) If the total liability for worker's compensation benefits, indemnification, and loss from destruction of equipment incurred in any calendar year exceeds \$1 per capita of the sponsor's population, the state shall reimburse the sponsor for the excess, except that if any additional costs are incurred in a future calendar year for an injury that occurred in the calendar year the state shall pay all of those additional costs.

(Wis. Stat. § 166.09). Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the state or any of its political subdivisions a license or privilege, or otherwise permits the state or any of its political subdivisions to inspect, designate and use the whole or any part thereof for the purpose of sheltering persons during an actual, impending, mock, or practice attack shall, together with his or her successors in interest, if any, not be civilly liable for negligently causing the death or injury to any person on or about such real estate or premises under such license, privilege, or permission or for loss or damage to the property of such person, if the owner or controller has made known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of said real estate or premises which might possibly result in death or injury or loss of property to any person making use thereof.

Wisconsin State Liability Laws for Charitable Organizations and Volunteers

Charitable Immunity	Immunity abolished. <i>Wojtanowski, v. Franciscan Fathers Minor Conventuals</i> , 34 Wis. 2d 1, 148 N.W. 2d 54 (1967); <i>Widell v. Holy Trinity Catholic Church</i> , 19 Wis. 2d 648, 121 N.W.2d 249 (1963).
Non-profit Member Wis. Stat. § 184.06	A person is not liable for a breach of contract of a non-profit association, a tortuous act or omission of the non-profit, or a tortuous act or omission of a member of the non-profit, just because they are a member of the non-profit.
Nonstock Volunteer Wis. Stat. § 181.0670	A volunteer of a nonstock corporation is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer. The exceptions are if there was a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the corporation—an act or omission within the scope of the volunteer’s duties as director or officer, or if proper credentials or a license were required and the volunteers did not have it. This section does not apply to a civil or criminal proceeding brought by a government entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, and claims arising from the negligent operation of any motor vehicle for which a permit is required.
Catholic Church Volunteer Wis. Stat. § 187.33	A volunteer who provides services without compensation on behalf of the Roman Catholic Church is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer. The exceptions are if there was a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the church—an act or omission within the scope of the volunteer’s duties as director or officer, or if the proper credentials or a license were required and the volunteers did not have it. This section does not apply to a civil or criminal proceeding brought by a governmental entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, and claims arising from the negligent operation of any motor vehicle for which a permit is required.
Church Volunteer Wis. Stat. § 187.43	A volunteer for a religious organization who provides services without compensation is not liable to any person for any monetary liabilities arising from an act or omission as a volunteer. The exceptions are if there is a knowing violation of criminal law, willful misconduct, an act or omission for which the volunteer received compensation, if the volunteer is a director or officer of the church—an act or omission within the scope of the volunteer’s duties as director or officer, or if the proper credentials or a license were required and the volunteers did not have it. This section does not apply to a civil or criminal proceeding brought by a governmental entity, a proceeding brought for violation of state or federal law if it is brought under an express, private right of action created by state or federal statute, and claims arising from the negligent operation of any motor vehicle for which a permit is required.
Food Donation Volunteer Wis. Stat. § 895.51	A person engaged in the food business who donates or sells food to a charitable organization for free distribution is immune from civil liability for death or injury of a person related to the food. A charitable organization, which distributes food free of charge to any person, is immune from civil liability for death or injury of a person related to food.
School Volunteer Wis. Stat. § 118.29	An authorized school volunteer is immune from civil liability in administering a drug or prescription drug to a student. The exception is if the act or omission constitutes a high degree of negligence. This does not apply to health care professionals. A school volunteer, other than a health professional, who in good faith renders emergency care to a private or public school student is immune from civil liability for acts or omissions in rendering the care.

General Protections for Volunteers

<p>Licensure</p>	<p>Volunteers will need to comply with licensure requirements of the state to which they are responding.</p> <p>Nurse Licensure Compact States. States which participate in the Nurse Licensure Compact recognize a nursing license issued by another Compact state. Nurses acting under this multi-state license must comply with the laws of the state in which the patient care is rendered.</p> <p>Model Nursing Practice Act States. States which have adopted the MNPA may have adopted a provision which permits nursing license reciprocity in certain situations. The volunteer should check with the state in question prior to providing services.</p> <p>Emergency/Temporary Licenses. Most states have provisions for issuance of emergency/temporary licenses in extraordinary situations. The law governing issuance of such licenses may limit the scope of practice in some cases.</p> <p>Waiver/Temporary Recognition of Licensure. Most states have mechanisms which permit the Governor or other appropriate authority to waive licensure requirements or temporarily recognize licenses granted by other jurisdictions in an emergency/disaster situation. However, laws differ between the states and the volunteer should review the waiver/recognition order carefully.</p>
<p>Liability</p>	<p>Volunteer Protection Act. This federal law protects volunteers from liability if: (1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission; (2) the volunteer held any required licensure, etc. in the State in which the harm occurred; (3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed; and (4) the harm was not caused by the operation of a motorized vehicle. Restricts punitive damages to clearly willful or criminal misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed. Excludes from protection claims related to violent crimes, acts of terrorism, hate crimes, sexual offenses, violation of state or federal law, or acts occurring while under the influence of alcohol or intoxicating drugs. Non-economic damages are excluded. State law may preempt this law in certain cases.</p> <p>State Liability Protection. Each state has liability protection statutes which benefit volunteers; however, the scope of coverage varies widely. The volunteer should check the law of the disaster state to determine which protections are available.</p> <p>State Emergency Management Act. Many state Emergency Management Acts provide that disaster response personnel are entitled to the rights and immunities of state employees while on disaster response. In Wisconsin, volunteer emergency management personnel who are registered in writing with an emergency management unit are indemnified against tort liability by that unit, so long as the volunteer is acting in good faith and in a reasonable manner. Healthcare providers who volunteer in Wisconsin during a declared public health emergency are treated as state agents for purposes of workers' compensation and immunity from liability.</p> <p>Good Samaritan Statutes. Although the specific coverage varies, Good Samaritan statutes typically limit liability for damages related to negligence in the provision of uncompensated care in an emergency. Gross negligence, willful and wanton misconduct, and violation of law are typically excluded from the limitation of liability. Situations where a duty to respond existed are also typically excluded.</p> <p>Special Situations: Athletic Events, AEDs, Etc. Many states have special liability limitations related to the use of automated external defibrillators (AEDs). Some states have special liability limitations for emergency care rendered in connection with athletic events or activities.</p> <p>Corporate Indemnity Statutes. Some states authorize corporations to indemnify volunteers for actions as a volunteer. As with other liability protection laws, many exclude willful/wanton or reckless acts and vehicular liability.</p> <p>Sovereign Immunity. Some, but not all, states have laws which grant immunity for civil claims to state employees acting in the scope of their employment. In some cases, this protection may extend to emergency volunteers.</p> <p>Liability/Other. Immunity or release of liability for actions such as operation of a motor vehicle, are typically excluded from state liability protection laws, and from the federal Volunteer Protection Act.</p>
<p>Workers' Compensation</p>	<p>In Wisconsin, volunteer emergency management personnel who are registered in writing with an emergency management unit or who volunteer during a declared public health emergency are treated as agents of the emergency management unit for purposes of workers' compensation.</p>
<p>Deployment Costs</p>	<p>Volunteers should clearly understand whether the sponsoring organization covers travel and deployment costs. If not, those costs may in some cases be deductible on your income taxes, if you meet requirements and have sufficient supporting documentation.</p>
<p>Medical Insurance</p>	<p>Typically, no medical insurance protections are offered to volunteers.</p>
<p>Employment Protections</p>	<p>No federal employment or re-employment protection exists for nonaffiliated volunteers. State law may in some cases grant protection. Volunteers should check applicable state law.</p>

	Licensure	Liability	Workers' Compensation	Deployment Costs	Medical Insurance	Employment Protections
<p>National Disaster Medical Service (NDMS) Volunteers. Volunteers who are members of National Disaster Medical Service teams are treated as temporary employees of the U.S. government when training or deployed.</p>	<p>So long as the volunteer holds a valid professional license in one of the 50 states or the District of Columbia, the volunteer may provide professional services anywhere in the nation when deployed through NDMS. Some states have raised issues regarding this.</p>	<p>NDMS volunteers are treated as employees of the Public Health Service when activated or in approved training, and have immunity under the Federal Tort Claims Act. As federal employees, NDMS volunteers are immune from liability under the Federal Tort Claims Act when activated or in approved training.</p>	<p>Volunteers who are members of NDMS are treated as employees of the Public Health Service when activated; if they are injured in the course of disaster response or training, they are eligible for workers' compensation through the Federal Employees Compensation Act (FECA) as determined by the Secretary of Labor.</p>	<p>Travel must be organized through the National Travel Services. Entitlement for coverage of travel costs are determined at activation.</p>	<p>NDMS volunteers who have employment-based medical insurance are guaranteed continuing coverage while on deployment, although the volunteer may be responsible for some costs, depending on the length of deployment.</p>	<p>NDMS volunteers are treated as members of the uniformed services of the United States and have employment and reemployment protections under the USERRA when deployed under federally (not state or local) authorized training or activation.</p>
<p>PHS Disaster Volunteers. Under 42 U.S.C. 217b, individuals may volunteer to provide disaster-related services under the Public Health Service. Services must be provided pursuant to a formal agreement, without compensation, and only to patients in DHHS facilities, federal beneficiaries, or others authorized to receive benefits through DHHS programs. Benefits of government service may, but are not required to be, provided to PHS Disaster Volunteers. Benefits must be approved by administrative or regulatory action of DHHS.</p>	<p>.</p>	<p>Civil liability protection may be available through the Federal Tort Claims Act, if authorized by DHHS.</p>	<p>Coverage through the FECA may be available, if authorized by DHHS.</p>	<p>Coverage of travel costs may be provided, if authorized by DHHS. Although it is not completely clear, the receipt of reimbursement for travel costs should not cause the individual to be deemed compensated.</p>	<p>There are no special provisions regarding medical insurance.</p>	<p>Members of the Public Health Service Commissioned Corps are protected by USERRA; however, it is not clear that PHS volunteers are protected.</p>

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<p>Schedule A Excepted Services Volunteers. Schedule A permits employment of temporary federal personnel when a critical hiring need exists and normal hiring processes can not be followed.</p>	As temporary federal personnel, licensure in one state will be honored by other states.	As temporary federal personnel, liability protection through the Federal Tort Claims Act will be available. Federal workers are immune from liability for non-malpractice claims which arise in the scope of employment under the Federal Tort Claims Act.	As a temporary federal employee, the volunteer will qualify for coverage through the FECA.	Travel costs may be covered by the government or applicable grants. Volunteers should determine whether reimbursement is available, and rules for reimbursement, before committing to respond. Non-reimbursed travel costs may be tax deductible in some cases.	There are no special provisions for medical insurance.	Employment and re-employment rights are not protected by USERRA. Volunteers can be required to use vacation time for response.
<p>Stafford Act Temporary Disaster Workers</p>	As temporary federal employees, a valid license in one state will be honored by other states.	As temporary federal employees, volunteers receive immunity under the Federal Tort Claims Act.	As temporary federal employees, volunteers are covered under the FECA for on-duty injuries.	Travel costs may be covered by the government or applicable grants. Volunteers should determine whether reimbursement is available, and rules for reimbursement, before committing to respond. Non-reimbursed travel costs may be tax deductible in some cases.	There are no special rules regarding medical insurance.	There are no employment or re-employment protections.

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<p>Emergency Management Assistance Compact (EMAC) Volunteers. Under the Emergency Management Assistance Compact, states agree to share resources when a disaster is declared. Because EMAC is an agreement between states, EMAC protections only extend to state employees or those volunteers who have otherwise entered into eligible agreements to respond under EMAC (such as volunteer services agreements). EMAC only applies when a disaster has been properly declared and only covers volunteers who are formally deployed through the EMAC process.</p>	<p>Licensed EMAC volunteers who deploy in response to a request from another EMAC state are deemed licensed in the disaster state, subject to any limitations imposed by the Governor of the disaster state.</p>	<p>EMAC volunteers deployed or training under EMAC procedures are immune from liability for good-faith acts or omissions. This does not apply to criminal acts..</p>	<p>Responding EMAC volunteers may be covered by the home state workers' compensation law.</p>	<p>Typically, EMAC volunteers may obtain reimbursement for deployment travel expenses. The requesting state will reimburse the responding state. Requirements for reimbursement should be reviewed prior to response.</p>	<p>EMAC volunteers who are employees of the responding state remain covered under employment-related medical insurance. Typically there are no special medical insurance provisions regarding EMAC volunteers under VSAs.</p>	<p>There are no federal employment or reemployment protections. Some states provide such protection to state employees who volunteer for emergency response. EMAC volunteers who are state employees are acting in the scope of employment. Other states offer protection to all emergency response volunteers.</p>