



Volunteers & Liability

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Public Officers Law § 17

- Provides defense and indemnification for “employees” of the state
- “Employees” defined as those individuals “authorized to act pursuant to a state-sponsored volunteer program”
- NYS DOH volunteer database qualifies as a “state-sponsored volunteer program”



Public Officers Law § 17

- NYS DOH must collect information and maintain the database
- Volunteers must be activated and deployed by NYS DOH for protection to apply
- Volunteers may be “handed over” and controlled on site by the local requesting agency
- Applies to all professional volunteers (not just MDs & RNs) but **not** to non-professional volunteers



NYS Professional Volunteer Database Deployment Protections

Deployment	Liability Protection	Workers' Compensation	Salary Paid by NY State	Paid Leave	Reemployment Rights	Licensure Waiver	Reimbursement (Out of Pocket Expenses)
Out of State	<p>YES</p> <p>EMAC- Exec. Law § 29-g(6) "Employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes and no party state or ... its employees rendering aid in another state ... shall be liable on account or any act or omission in good faith on the part of such forces while so engaged.... Good faith shall not include willful misconduct, gross negligence or recklessness."</p>	<p>YES</p> <p>EMAC – Exec. Law §29-g(8) "Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state. Volunteers deployed pursuant to EMAC will be given Workers' Comp. Protection by NYS.</p>	No	Must arrange with employer	Must arrange with employer	<p>YES</p> <p>EMAC – Exec. Law § 29-g(5) "Whenever any person holds a license, certificate or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical or other skills, and when such assistance is requested by the receiving state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance ... subject to such limitations and conditions as the governor of the requesting state may prescribe."</p>	<p>EMAC – Exec. Law § 29-g(9) provides that any party state rendering aid to another state shall be reimbursed for all expenses incurred answering a request for aid. Volunteers may submit a bill to the State Emergency Management Office which would then seek reimbursement on the volunteers' behalf.</p>
In State	<p>YES</p> <p>Public Officers Law § 17 Volunteers activated and deployed by the NYS Dept. of Health will be provided defense and indemnification through the Attorney General's office. This coverage would be secondary to any other third party coverage available to the volunteer (i.e. malpractice insurance).</p>	<p>Maybe</p> <p>Volunteers will not be prohibited from receiving workers' compensation coverage because of their status as volunteers. Whether workers' comp. Coverage is available is determined based upon the specific facts of each case. The Workers' Comp. Board will examine, among other factors, who has the right to control the work, the method of payment, who furnishes equipment, the right to discharge and the nature of the work.</p>	No	Must arrange with employer	Must arrange with employer	<p>No, unless the governor declares an emergency in the state and suspends the licensure statutes pursuant to Exec. Law § 29(a)(1).</p>	??