LIABILITY OF VOLUNTEERS FOR NON-PROFIT AGENCIES
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ISSUE: What legal provisions exist to protect volunteers of a non-profit agency from
lawsuits by people physically or financially injured by attempts to respond to an
emergency?

ANSWER: Though no one law protects all responders in all circumstances, there are
laws that cumulatively and individually provide coverage. They are summarized in a
document on the DSHS Public Health Preparedness Legal Resources web page:
http://www.dshs.state.tx.us/comprep/ogc/default.shtm. Keep in mind:

• This document or others provided to the public are not a substitute for legal
advice. The summaries may omit provisions or exceptions that are relevant to
your situation. You should consult a lawyer if you have any questions.
• The statutes often have exceptions and may not protect for behavior that is as
“willful misconduct”, “gross negligence”, “criminal” or violations of civil rights.
• The laws below protect individuals, not governmental or private entities. Laws to
protect entities are not covered here.

DISCUSSION:
Volunteers of Non-Profit Agencies. Volunteers are protected under both state and
federal law. The protection under federal law (42 USC §§ 14501-14505) covers
volunteers of governmental or non-profit organizations if the volunteers were acting
within the scope of their responsibilities and applicable professional license. To qualify
as a volunteer, the person should accept no reimbursement except reimbursement of
expenses.

Chapter 84 of the Civil Practice and Remedies Code provides liability protection to
health care providers who serve as direct service volunteers of a charitable organization.

Other provisions protect volunteers engaged in “homeland security activities” performed
at the request of state or local government. These activities are defined broadly to include
a “terrorist attack, natural or man made disaster...or extraordinary law enforcement
emergency” (Government Code §§421.061, 421.001). When engaged in these activities,
volunteers are considered to be members of the state military forces for purposes of civil
liability.

Volunteers providing emergency medical care may be protected under provisions of the
Texas “Good Samaritan” law (Civil Practice and Remedies Code §§ 74.151, 74.152).

Volunteers providing requested assistance to government concerning management of a
disaster are covered by Civil Practice and Remedies Code §79.003.