

Liability in Disasters

Liability is a major concern in emergency management and creates fears about personal injury of rescue workers and negligent treatment of disaster victims or their property. Liability can be addressed only if responders have proper authority and qualifications to be involved in emergency management. The fear of being sued can cripple any form of help. For example, some victims of the 1993 riots in Los Angeles sued their rescuers for inappropriate level of care. Emergency medical groups were worried that their technicians might sue them for injuries received in a dangerous work environment because the exposure to riots was perceived not to be within the technicians' job descriptions. Responders (especially emergent volunteers) often rely on protection provided under Good Samaritan laws.

Good Samaritan Laws

Good Samaritan laws protect persons rendering aid or assistance to accident or disaster victims against liability. However, Good Samaritan laws are complex and vary among states:

- In some states permission is required before helping a conscious victim, or if a victim is unconscious, badly injured, or too ill to respond, it is assumed that the victim would give consent.
- In Vermont any able-bodied person must provide assistance if the situation arises.

Good Samaritan laws do not protect against acts of negligence or apply to veterinary clinics to which owners bring their animals for treatment. A summary of statutes relating to Good Samaritan laws is provided in a separate article.

Some states, such as Texas and California, also have Animal Good Samaritan laws. The Texas Animal Good Samaritan Law says that a veterinarian who on his own initiative or at the request of a person other than the owner renders emergency treatment to an ill or injured animal is not liable to the owner for damages to the animal except in case of gross negligence. If a veterinarian performs euthanasia on the animal it is presumed that it was a humane act necessary to relieve pain and suffering.

In California, similar laws protect veterinarians whether they act at the request of the owner or at the request of someone other than the owner.

Even with the protection of Good Samaritan laws, the following actions are recommended:

- Learn whether the owner is present and can be contacted. Attempts to identify and contact the owner should be documented.
- Render only treatment that seems necessary.
- Continue treatment until arrangements can be made for removal and future care of the animal. In the case of stray animals this may be until the animal can be turned over to the local animal control department.
- Gather records of services and pertinent information from witnesses at the scene.
- Use good judgment and some restraint in discussing with anyone the nature of the incident, the condition of the animals, and what is done to them.

Officially Integrate into Emergency Management

Perhaps the best way to address protection from liability is for veterinary disaster management personnel to be protected under the same laws that protect other emergency management personnel. This is generally accomplished only if the organization has developed its duties as part of an official Emergency Operations Plan (see Chapter 19). As an example, part of Indiana's EOP and memoranda of understanding are given in Appendices D and E. In addition, if state

programs are operated through the state veterinarian's or public health veterinarian's office, responders should be protected in the same way as other public service personnel.

In general, for members of a volunteer group to be covered by that group's insurance, the members need to have acquired appropriate credentials with the organization. This usually involves some type of training and supervision. Many local governments are self-insured, and some volunteer groups have followed that example by subscribing to insurance policies that cover their members.

Public service personnel are usually protected by the following laws:

- Common law theory of government immunity
- Tort claims acts
- Professional liability
- Volunteer groups should consider providing various kinds of insurance coverage:
- Liability: general, auto, directors, and officers (decision makers)
- Individuals: personal auto, malpractice
- Worker's compensation

Protection against Lawsuits

Groups and individuals can take actions to reduce the threat of lawsuits and, if they are filed, to avoid losing a lawsuit:

Providing appropriate training: This includes screening volunteers, matching them with tasks according to their skills, and ensuring that they have received adequate training to perform the jobs they are assigned.

Providing appropriate supervision: This is accomplished by having a designated supervisor who can establish standards of performance, supply proper equipment and resources, and determine the limits of performance for volunteers according to their written job descriptions.

Documenting: Items to document are training records, data on emergency volunteers, and the amount of training they have received. Records should be maintained and updated regularly.

Consulting a legal advisor: Whenever possible professional legal advice should be sought.

Recently enacted federal legislation involves the liability of registered volunteers. The Volunteer Protection Act of 1997 aims to relieve a volunteer of liability for harm if he or she was acting within the scope of volunteer responsibilities.

A Word of Caution

Although litigation has been infrequent, it could have far reaching consequences on responders' willingness to offer help in the future. For this reason a significant part of emergency management concerns itself with the planning and training of responders. To my knowledge, litigation has not been an issue in veterinary disaster medicine, although it is likely that as procedures become more clearly defined and expectations of disaster victims are raised, lawsuits will follow. Hazardous material incidents are a probable area for this to occur in veterinary disaster medicine. This is because clearly defined procedures and credentials have been established to deal with many hazardous materials and the public and regulatory officials expect these standards to be followed. Regrettably, however, it is often erroneously implied that veterinarians and other animal care personnel are qualified to deal with hazardous material

issues.