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Legal and Regulatory Issue Concerning Volunteer Health Professionals in Emergencies

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Case Study 4: Workers' Compensation Coverage for Volunteers in Minnesota

Factual Statements. A February ice storm led to an 86 car pile-up on Route 61, in Hastings, a small town in Dakota County, Minnesota. The accident resulted in 10 fatalities and 159 injuries. Regina Medical Center is the only hospital in the immediate area. Regina Medical Center is a JCAHO accredited hospital, with 54 acute care beds and an emergency department. The hospital has 30 physicians on staff. The ice storm has also damaged the power lines in Hastings, causing many to lose electricity. Lacking heat, dozens of elderly residents and individuals with special health care needs require medical treatment for hypothermia and other illnesses related to prolonged exposure to extremely cold temperatures. Minnesota's Governor declares an emergency in Dakota County to mobilize greater state resources in the response efforts.

Sharon Wyatt, RN is a registered as volunteer in the Minnesota Responds! Program. She is asked to provide assistance at Regina Medical Center to deal with the large numbers of trauma patients presenting in the emergency department. Nurse Wyatt is a registered nurse who works in the emergency department of University of Minnesota Medical Center's Riverside Campus, Minneapolis, MN. Nurse Wyatt injures her back while helping to move a large male patient from a stretcher during her volunteer shift in the emergency department of Regina Medical Center. She is immediately treated with anti-inflammatory and pain medications in the emergency room, but needs 6 months of physical therapy to fully recover. Her injuries render her completely unable to return to work for 3 months.

James Smith, MD is a trauma surgeon at Regions Hospital, St. Paul, MN. He is also registered as a volunteer under Minnesota Responds! Because of the ice storm, Dr. Smith decides to stop at his elderly mother's house to confirm that she still has heat and electricity. Although, he was not specifically requested to provide assistance in response to this emergency, during his

drive to his mother's house, he spontaneously decides to go to Regina Medical Center to provide medical assistance to treat the trauma patients. He is involved in a car accident prior to reaching his mother's house which occurred when his vehicle skidded out of control after hitting a patch of ice. He experienced severe injuries to his right arm and hand, leading to permanent disability. Recovery will involve extensive physical and occupational therapy. These facts raise the issue of whether Nurse Wyatt and Dr. Smith will be entitled to workers' compensation coverage for their injuries, and if so, what benefits will be available to them under Minnesota law.

Focused Legal Analysis. In June 2005, Minnesota amended its Emergency Management Act to provide workers compensation coverage for volunteer health professionals assisting in the response to a government declared emergency.¹ Specifically, the law provides that volunteers are considered employees of the government subdivision to which they are providing assistance for purposes of determining workers' compensation coverage.² Volunteers must be registered with a specific government entity providing assistance in the emergency response to be entitled to workers' compensation coverage. Volunteers are covered for personal injuries arising out of or experienced in the course of performing their volunteer duties.³ Covered injuries are those which occur while the volunteer was engaged in, on, or about the premises of the host hospital, and during the hours when the volunteer was providing medical services in accordance with the government's request for medical assistance.⁴ Injuries that have a direct causal connection with the work environment are compensable,⁵ which include injuries (1) associated with a hazard or risk connected with the employment; (2) that flow directly from an exposure occasioned by the nature of the work;⁶ or (3) are sustained while traveling to and from work.⁷

In this case, Nurse Wyatt is eligible for workers' compensation coverage for her back injury. She experienced the injury while assisting in the care of a patient injured in the accident on Route 61. Thus, the injury was one that resulted directly from the provision of medical services at Regina Medical Center in accordance with her volunteer duties. Workers' compensation benefits for Nurse Wyatt include compensation for the costs of reasonable and necessary medical treatment related to the injuries and prescription medications.⁸ Additionally, they are entitled to compensation for disability benefits related to their lost wages. For purposes of calculating loss wage benefits, their daily wage will be determined by "the usual going wage paid for similar services" in the locality where the services are performed.⁹ Nurse Wyatt may receive temporary total disability benefits for the three months that she is unable to return to work because of her injuries.¹⁰ Once she has returned to work and is working under limited duties, Nurse Wyatt will be entitled to temporary partial disability benefits if her wages during that period are reduced because of her limited work capacity.¹¹

Dr. Smith is not eligible for workers' compensation coverage from the state. Under Minnesota law, "[I]f the injury can be seen to have followed as a natural incident to the work and as a result of the exposure occasioned by the nature of the employment, then it arises out of the employment."¹² Accordingly, Minnesota provides workers' compensation coverage for injuries sustained while an individual is traveling to and from their place of employment.¹³ However, coverage does not extend to trips made solely out of personal necessity.¹⁴ Under the dual purpose rule, if a trip involving a personal errand would not have been made absent a work related necessity, then any resulting injuries would be covered.¹⁵ In this case, Dr. Smith was injured while traveling to his mother's home and he did not decide to go to the hospital until after he began his trip to his mother's home. Since the personal errand to his mother's home was the original intent of the trip, he is not entitled to workers compensation coverage for the resulting injuries. Furthermore, Dr. Smith was not responding to the government's request for medical assistance when he was injured. Thus, he will not be entitled to workers' compensation coverage for his injuries.

¹ Minn. Stat. §12.22, Subd. 2a (2005).

² Id.

³ Minn. Stat. § 176.011, Subd. 17 (2004).

⁴ Id.

⁵ Johannsen v. Acton Construction Co., 264 Minn. 540, 545, 119 N.W.2d 826, 829 (1963).

⁶ Id.

⁷ Id. at 546, 119 N.W.2d at 829.

⁸ See Minn. Stat. § 176.135, Subd. 1 (2004).

⁹ Minn. Stat. § 176.011, Subd. 3 (2004).

¹⁰ See Minn. Stat. § 176.101, Subd. 1 (2004).

¹¹ See Minn. Stat. § 176.010, Subd. 2.

¹² Johannsen, 264 Minn. at 549, 119 N.W.2d at 832.

¹³ See Blattner v. Loyal Order of Moose, Moose Lodge No. 1400, 264 Minn. 79, 81, 117 N.W.2d 570, 572 (1962).

¹⁴ See Rau v. Crest Fiberglass Industries, 275 Minn. 483, 485-86, 148 N.W.2d 149, 151 (1967).

¹⁵ Id.