

VOLUNTEER LEGAL ISSUES

By Catherine Hansen-Stamp
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Volunteer Legal Issues

- ▣ This presentation contains general information and is not intended to provide specific legal advice. adventure and recreation providers should consult with legal counsel, experienced in recreational law, regarding matters specific to their business or operation, and aware of the laws in their jurisdiction.

Introduction

Goal: *Run a quality operation!*

- **Manage, not eliminate risks**
- **Proactive, not reactive**
- **Addresses practical and legal**
- **Fundamental fairness to participants and staff**

Introduction

Risk Management:

Addresses risk of loss:

- to participants
- to program

Think about that...

Legal Exposure

Civil and Criminal Law

Civil: Tort of Negligence

4 Elements: Duty, breach,
proximate cause, injury or loss

Duty of Care – Volunteers

The care that a reasonably prudent person would exercise in the same or similar circumstances.

- Who is that RPP?
- Lower ‘standard’ of care? No!

Legal Issues

Volunteer Liability:

- Federal and state limited immunity from liability
- Policy: to encourage volunteers!

Legal Issues

So, what is the problem?

Legal Issues

In most states, the organization doesn't share that immunity (non-profit or otherwise)

Legal Issues

Organization liability for volunteers:

- Direct Liability
- Vicarious Liability
- Agency theory

Responsible practices – Volunteers

- Hiring and screening
- Training and use
- Health and medical Info for trips

Responsible practices – Volunteers

Liability insurance coverage (including defense of claims)

- For organization (acts of, or suits by volunteers)
- For volunteer

Responsible practices – Volunteers

Volunteer risk/release agreement

Workers' Compensation dilemma –
medical payments?

Contact Information

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