



# **Erie County Medical Reserve Corps (S.M.A.R.T.) Volunteer Liability**

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# Specialized Medical Assistance Response Team (S.M.A.R.T.)

- Equivalent of MRC for Erie County, NY
- Volunteer membership composed of nurses, pharmacists, public health professionals, mental health providers, clerical staff, communications specialists, veterinarians, dentists, funeral directors, etc.
- Approximately 400 members currently enrolled (100 active)
- Duties include: monthly training, participation in exercises/drill, activation in emergency upon request

# Potential Sources of Negligence Exposure in S.M.A.R.T. / MRC Activity

- Direct Patient Care
  - Patient history, assessment and triage
  - Patient handling
  - Informed consent
  - Diagnosis, medication and treatment
  - Documentation of patient care
  - Patient transport
- Operation of motor vehicles
- Operation of equipment
- Presence on private property



# Major Negligence Consequences in S.M.A.R.T. / MRC Activities

- Injury to patients
- Injury to other volunteers
- Injury to response partner workers
- Damage to patient's property
- Damage to volunteer's property
- Damage to response partner's property

# S.M.A.R.T. Authority

- Established by resolution of Erie County Legislature (July, 2001)
  - Established under Department of Emergency Services and Health Department; coordinated by Department of Emergency Medicine at Erie County Medical Center (Section 209-bb of General Municipal Law)
  - Volunteers will respond to actual/potential emergencies upon special request of Incident Commander in Erie County / WNY

# Authority: Enabling Legislation Continued...

- S.M.A.R.T. members who serve without direct compensation from the County of Erie will be included within the coverage provided by the Workmen's Compensation Law when providing services under the authority of EC Emergency Services or DOH
- Any monetary donations received by the team will be accountable to the Commissioner of Health

# Authority: Official Designation

- Letter of designation: April 5, 2005
- Co-signed by Commissioners of Health and Emergency Services
- Erie County Legislature recognizes S.M.A.R.T. as public health emergency response volunteer organization as per July 2001 resolution
- Submitted to NY SEMO

# Authority: Official Designation Continued...

A volunteer organization defined under NY Unconsol Laws as “agencies sponsored or authorized by the commission of local officers of civil defense the personnel of which are in major part selected from among volunteers serving without compensation and may include...emergency medical units and other medical force...and all other similar forces and services having duties and responsibilities in connection with civil defense.”

# Authority: Official Designation Continued...

An emergency services organization defined under NY Executive Law section 20 (e) as “a public or private agency, organization, or group organized and functioning for the purpose of providing...medical, ambulance, rescue...or other services directed toward relieving human suffering, injury, or loss of life...as a result of an emergency, including nonprofit and governmentally supported organizations.”

# Shortfalls of Current S.M.A.R.T. / MRC Liability Coverage

- Professional liability coverage
  - Good Samaritan laws provide malpractice liability but do not prevent lawsuits in which members could incur substantial legal fees to defend themselves



# Shortfalls of Current S.M.A.R.T. / MRC Liability Coverage

- Automobile liability coverage
  - Does not include personal automobile liability coverage
  - Operation of 3 designated S.M.A.R.T. response vehicles based on policy decision from Law Department (Sept. 2003), not legislative resolution



# Shortfalls of Current S.M.A.R.T. / MRC Liability Coverage Cont.

- General liability coverage
  - Overlap in potential hazards between Professional and General liability warrant extended coverage for members
  - General Liability will protect against claims from non-professional type occurrence
    - Damage to patient's property
    - Third party injuries sustained during events

# Measures to Reduce Liability

- Basic Membership Requirements
  - Completed application
  - Verification of professional licenses
  - Annual physical and fit test
  - Background check
  - Orientation (Self-study)
    - Emergency Response to Terrorism
    - Incident Command System ICS-100
    - National Incident Management System IS-700



# Measures to Reduce Liability Continued...

- Monthly training activities
  - Orientation to new equipment
  - Ongoing practice with equipment
  - Casualty Collection Point training
  - Point of Distribution training
  - Biological, Chemical, Radiologic awareness training



# Measures to Reduce Liability Continued...



- Participation in table-top exercises and full-scale / functional drills
- Standard Operating Procedures
- Photo ID, Team uniforms

# Next Steps

- Extend by resolution professional, auto and general liability coverage under current county self-insurance plan
- Encourage all licensed members to enlist in NYSDOH Volunteer database
- Continue with measures to reduce liability