

## **PUBLIC SAFETY LIFELINE VOLUNTEERS INJURY, DISABILITY, ACCIDENTAL DEATH, LIABILITY AND GENERAL INSURANCE COVERAGE**

The issue of WorkSafeBC coverage, liability protection and the Good Samaritan Act applicability for Public Safety Lifeline (PSL) volunteers arise repeatedly. The following is intended to clarify the above noted topics.

### **Injury, Disability and Accidental Death - WorkSafeBC**

The Federal and Provincial governments have an agreement entitled “An agreement providing for sharing the cost of compensation in respect of the injury or death of Emergency Services Workers”. This agreement basically states that the Federal Government will pay 75% and the Province will pay 25% of the authorized claims for injured or killed “Emergency Service Workers”.

An “Emergency Services Worker (ESW)” is defined as any person who has volunteered for Emergency Services Work and has registered with the Provincial Emergency Services Coordinator. In British Columbia this is PEP and one of the key reasons we are adamant about volunteers registering with us and signing in on a task. The agreement also outlines that “Emergency Service Work” means, there is no compensation and the response activity has been authorized by PEP. Worksafe BC advises that it is the responsibility of PEP to designate who its “employees” are for the purposes of the agreement. PEP has said that persons, who are registered as “public service lifeline”, including search and rescue volunteers, are Emergency Service Workers and thus considered employees for purposes of WorkSafeBC coverage.

**NOTE:** While we tend to gloss over the fact, the agreement does state that a Provincial Emergency Service Coordinator can be either the Minister or a local authority. This means that ESW at the municipal level are also covered when engaged in volunteer emergency services work.

The agreement states that WorkSafeBC decides whether or not the “accident occurred out of and in the course of Emergency Services Work” and that any payments are made based “in accordance with the provisions of the Worker’s Compensation Act”. If WorkSafeBC deems that the injury, death or illness meet the guidelines, the WorkSafeBC compensation process and claim criteria are then utilized. These are the same guidelines that are used in any workplace within the province. The main requirement is that the injury, death or illness must have both “arisen out of the employment” and “in the course of the employment”.

When there is no income history related to the “employment”, as is the case with many PEP PSL volunteers, WorkSafeBC will use the earnings in the workers ordinary employment for their calculations. There are criteria for calculating income for casual, part-time and new workers. For Emergency Services Workers who are unemployed and have no history of earnings, earnings are fixed by WorkSafeBC at a figure not less than \$25.00 per week or more than the maximum under the Act. The maximum recognized earnings that will be used for the calculations, as of 2008 are \$66,500. A critical factor to ensure prompt coverage is that any reports of injury or death are provided to the PEP Emergency Coordination Centre immediately, and the required paperwork is submitted to the Regional office as soon as practicable.

### **Accidental Death and Dismemberment / Weekly Indemnity**

The Accidental Death and Dismemberment policy covers volunteers for accidental death, or for any injury and/or disability they might suffer while performing their authorized duties on behalf of the Province. The insurer will pay a principal sum to a registered volunteer's beneficiary if the volunteer suffers accidental death: the insurer will pay the principal sum, or a lesser amount, to the insured volunteer if he or she suffers accidental dismemberment or injury. It will also pay weekly indemnity benefits to an injured volunteer, the amount of these benefits depending on the extent of the injury and whether or not the volunteer was gainfully employed at the time of the accident. The insurer will also reimburse the injured volunteer for out-of-pocket expenses. There are guidelines outlined in the policy.

**NOTE:** PEP subscribes to the provincial AD&D coverage only for those individuals who fall outside WorkSafeBC coverage, i.e. the unemployable, retirees, stay-at-home parents. **AD&D is not in addition but rather in place of WorkSafeBC coverage.**

Coverage is available to registered volunteers while and in consequence of performing authorized duties on behalf of the Province of British Columbia while under the direction and control of the Province or a local authority. Coverage is provided as follows:

#### **Accidental Death and Dismemberment**

The principal sum of \$40,000 is payable as a result of an accidental death and in the case of an accidental dismemberment or injury, the principal sum, or a lesser amount depending on the injury, is payable.

#### **Weekly Accident Indemnity**

Benefits are payable to injured insured persons who, as a result of an accident, received reduced remuneration from their regular, full time employment. Weekly benefit amounts are up to \$300 for temporary total disability (maximum 52 weeks), and \$150 for temporary partial disability (maximum 26 weeks). If the volunteer is not gainfully employed on a full time basis at the time of the accident, the benefits payable would be \$100 for temporary total disability (maximum 52 weeks), and \$50 for temporary partial disability (maximum 26 weeks).

### **Accident Reimbursement Expense**

Expenses incurred by an injured volunteer for services such as hospital, ambulance, or nursing services or costs for prescription drugs, splints, crutches or other allowed costs to a limit of \$2,500.

**NOTE:** This summary is intended only as a general outline as all of the above coverage is subject to policy terms and conditions. Further information is provided in Section 4.2, Appendix 1 of the Personnel Management Policies and Procedures Manual. **Given that the maximum (\$66,500) benefit payable may not meet the expectations of a volunteer that earns more than the maximum benefit payable, supplementary death or disability insurance is recommended.**

### **Liability Protection**

#### **Civil Liability Protection**

The Emergency Program Act Part 4, Section 18 provides exemption from civil liability for persons, both employees and volunteers, when carrying out measures relating to emergencies and disasters and for which the person(s) was not negligent.

#### **General Liability Protection**

The Commercial General Liability policy provides coverage both to the Province and to its volunteers. The policy insures both against third party legal liability resulting from claims due to damage to the property of others, and bodily injury or personal injury (libel, slander, etc.) to third parties, accidentally caused, which arise from the authorized duties of the volunteers on behalf of the Province. The limit of liability on the policy is \$2 million per occurrence. The policy will also provide a defense and pay related defense costs.

#### **Good Samaritan Act**

The BC Government Risk Management Branch advises that as long as the volunteer responder is not receiving pay, or expecting to receive pay, for rendering emergency medical services or aid, they are NOT “employed expressly for the purpose” of rendering the medical services or aid. They advise that the phrase “employed expressly for the purpose” is interpreted in a manner that gives the word “employed” its ordinary meaning. In short, the opinion of the Province of BC is that PEP PSL Volunteers, who are not employed expressly for the purpose of rendering medical services or aid, are covered by the Good Samaritan Act.

#### **Summary of Liability Coverage for Volunteers in Respect of Medical Acts**

If the **volunteer is not a medical professional** but is administering first aid within the limitations of his/her training or knowledge.

- Covered under the Commercial General Liability Policy.
- Exempt from civil liability under the Emergency Program Act.
- Exempt from liability under the Good Samaritan Act.

If the **volunteer is a medical professional** and does render medical treatment.

- Not covered under the Commercial General Liability Policy.
- Exempt from civil liability under the Emergency Program Act.
- May be exempt from liability under the Good Samaritan Act subject to an interpretation of the term “employed expressly for the purpose” as it pertained to the circumstances at the time of the incident that gave rise to the claim.

## **EXCEPTIONS**

The exemption from civil liability provided under the Emergency Program Act does not extend to liability incurred outside of a PEP approved task, likewise for the liability insurance provided by the province.

Volunteer societies are encouraged to ensure that they have both appropriate and adequate insurance coverage to protect the society, its assets and its members and directors.

The National Ground SAR Insurance Program, developed with the assistance of Algoma Insurance Brokers and J&H Marsh & McLennan, provides General and Professional Liability plus optional “add-ons” for individual accidental death/dismemberment. More information can be found at <http://www.algomains.com/>. The National Ground SAR Insurance Program is underwritten by Guardian Insurance and is available only through SARVAC or Algoma Insurance. You do not have to be a SARVAC member to apply nor does your group have to be incorporated as a Society.

## **General Insurance**

The Province does not provide general insurance coverage for vehicles, water craft, buildings or other assets, therefore individuals and groups are encouraged to obtain appropriate insurance coverage. The Province may provide, in accordance to PEP Policy, reimbursement for the repair or replacement of property loss or damaged during a PEP authorized task. Reimbursement is normally limited the lesser of the repair or replacement cost or the amount of the insurance deductible in the case of vehicles and watercraft to a maximum of \$1000. Societies encouraged to ensure they have adequate insurance coverage.

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## FREQUENTLY ASKED QUESTIONS (FAQ'S)

### LIABILITY INSURANCE

1. ***What kind of liability protection is provided to Provincial Emergency Program (PEP) volunteers?***

Registered PEP volunteers have three levels of liability protection:

**Emergency Program Act:**

Section 18 of the *Emergency Program Act*, RSBC Chap. 111, 1996, provides exemption from civil liability (unless grossly negligent) for all measures relating to emergencies or disasters. This exemption from civil liability is provided to:

- volunteers
- members of a “local authority”, as defined in the Act
- any business or public institution authorized by a local authority or by PEP under a contract or PEP task number.

**\$2 million provincial liability insurance:**

The government maintains a comprehensive general liability insurance policy with a limit of \$2 million covering all provincial volunteers. The policy includes legal representation provided by the provincial government.

It is very unlikely that any registered PEP volunteer would require this coverage as they are provided exemption from civil liability in the *Emergency Program Act*.

Coverage for \$2 million is considered adequate based on a government risk assessment.

**Good Samaritan Act:**

Under the *Good Samaritan Act*, a volunteer providing emergency aid to someone is not liable for injury or death (unless grossly negligent or employed expressly for the purpose of performing that service).

2. ***Who pays the legal costs if a lawsuit, covered by the \$2 million policy, is instituted?***

The liability insurer (the government) provides a legal defence on behalf of the person named in an action.

3. ***Does the liability protection cover persons with professional credentials such as doctors and engineers?***

Yes. They have the same coverage as any other volunteer. However, the liability insurance policy purchased by the government does not cover professional errors and omissions liability or medical malpractice liability.

Professionals who perform a function for which they are certified or licensed by a professional standards association have a duty of care with respect to their profession. Therefore, they would be held accountable by their respective governing bodies for failure to meet their duty of care, regardless of whether or not they were acting as a volunteer. Acting as a volunteer does not absolve them of their professional responsibilities.

4. ***What types of events does the liability insurance provide coverage for?***

Liability insurance covers PEP authorized training and operational tasks only; it does not cover fundraising, social activities or public education activities such as mall displays or SAR prevention activities.

5. ***What liability do instructors bear when they certify that a volunteer is competent in a certain field?***

Instructors and students are included in the liability coverage. However, instructors are provided by PEP and the JIBC with course standards to which a person must qualify, and instructors must ensure these standards are not compromised when assessing students.

6. ***What is the liability of search managers who are allocating personnel in the field?***

Search managers are included in the liability coverage. However, they must act in good faith, knowing the skills and abilities of the personnel they are directing.

7. ***Are the assets of a society at risk from a civil suit in a negligence suit?***

Section 18 of the *Emergency Program Act* provides exemption from civil liability when an individual is carrying out authorized emergency measures. **Societies are not provided an exemption from civil liability under the Emergency Program Act** and as such societies are encourage to purchase additional liability insurance for directors and officer should such as suit arise.

8. ***Does the liability policy cover the directors and officers of a society?***

The provincially-funded liability insurance program does not cover the directors and officers of a society while they are acting in that capacity; it only covers

authorized operational and training tasks as such societies are encourage to purchase additional liability insurance for directors and officer should such as suit arise.

## **WORKSAFEBC COVERAGE**

### **9. *When does WorkSafeBC cover a volunteer?***

PEP registered volunteers are provided WorkSafeBC coverage through the *Workers Compensation Act*. For the purposes of WorkSafeBC coverage, volunteer activities are divided into four categories:

#### **Operational tasks:**

PEP volunteers are considered to be “on operational call”; therefore they receive coverage for the travel portion of their response (portal to portal) as well as for the operational tasks.

#### **Training tasks:**

Travel related to training tasks is not subject to the same level of urgency, therefore the travel portion is not covered by WorkSafeBC. However, the training exercise itself is covered by WorkSafeBC.

#### **Demonstrations and competitions:**

Demonstrations or competitions where there is a significant risk of injury are viewed as an opportunity to test the level and quality of training. A PEP training task number application should be submitted and a task number requested. Once assigned a training task number, the participating volunteers qualify for WorkSafeBC and liability coverage for the demonstration/competition, but not for travel to these activities.

#### **Public education and displays:**

Public education activities, such as mall displays or parades, are not covered by WorkSafeBC.

### **10. *What does WorkSafeBC pay for if I'm injured?***

WorkSafeBC pays applicable medical and rehabilitation expenses and partial wage replacement based on a percentage of your earnings. Wage replacement does not apply to persons whose present income is not affected by the injury.

The maximum WorkSafeBC benefit is based on the average industrial wage which is currently \$66,500. The \$66,500 maximum applies to all BC workers who receive WorkSafeBC coverage in the province and is not specific to PEP volunteers.

For more information on this topic please visit <http://worksafebc.com/>

**11. What does WorkSafeBC pay if someone is killed while on a task?**

Funeral expenses, a one-time-only lump sum payment to your beneficiary, which is over and above the pension amount, and a pension based on a number of variables such as the age of the surviving spouse, the number of dependents and, most significantly, the volunteer's average yearly earnings at the time of the death. For more information on this topic please visit <http://worksafebc.com/>

**12. Will WorkSafeBC cover volunteers if the accident was their fault?**

Yes, WorkSafeBC is "no fault" and volunteers would be covered.

**13. What conditions are there for WorkSafeBC coverage?**

Volunteers are covered whenever they are registered for a PEP authorized operational or training task (see categories explained in question 9 above).

**14. If a PEP volunteer is injured and lifted out of a site by helicopter, does WorkSafeBC still apply?**

Yes, WorkSafeBC still applies.

**15. Are air crew (spotters) covered for WorkSafeBC while flying in a private aircraft? How does WorkSafeBC respond in relation to aircraft insurance?**

Yes, they are covered. WorkSafeBC coverage is primary; meaning no other insurance policy that may be in force at the time of the injury will pay compensation of any kind as long as WorkSafeBC coverage is applicable.

## **VEHICLE INSURANCE**

**16. Are volunteers covered for WorkSafeBC while travelling in a vehicle? How does WorkSafeBC pay in relation to ICBC insurance?**

Assuming volunteers are travelling to a PEP authorized training or operational task after being issued a task number, WorkSafeBC coverage would apply. WorkSafeBC would recover payments from ICBC.

**17. If I use my vehicle as a volunteer for PEP tasks, how should my vehicle be rated for insurance?**

The vehicle should be rated for its normal use; volunteer work with the vehicle does not affect the insurance rating.

## EQUIPMENT INSURANCE

### 18. *How should the group equipment be insured?*

PEP does not provide coverage for equipment. The society or group should obtain insurance for their own equipment, including any vehicles, boats or aircraft.

### 19. *Does PEP fund the repair or replacement of privately-owned or group-owned equipment used on an authorized operational task?*

#### **Minor Personal/Group Equipment and Property:**

PEP will reimburse the full cost to repair or replace, whichever is less, when equipment and property are lost or damaged on an authorized operational task.

#### **Major Equipment (personal vehicles, boats, generators, etc.):**

PEP will reimburse the lesser of the actual repair cost or the cost of the deductible portion of insurance coverage to a maximum of \$1000, or if not insured, the maximum sum of \$1000.

## AGE FOR VOLUNTEERS

### 20. *For WorkSafeBC and liability insurance purposes, what are the minimum and maximum ages for volunteers to enrol with PEP?*

The minimum age is 16; volunteers between 16 and 18 years of age require signed consent from their parent or guardian. There is no maximum age.