

## Volunteer Considerations Regarding Street Medicine

- I. Can an employee of a private, non-profit perform volunteer services for the employer?
- A. For the services to qualify as “volunteer” services under the federal Fair Labor Standards Week (FLSA), they must be:
1. Performed for civic, charitable, or humanitarian reasons, without the promise, expectation, or receipt of compensation for services rendered;
  2. Offered freely and without direct or implied pressure or coercion from the employer; and
  3. Not be of the “same type of services” performed by the employee in his/her regular employment for the employer. 29 U.S.C. § 203(e)(4)(A); 29 C.F.R. §§ 553.101-553.103
    - a. The FLSA regulations define the “same type of services” as “similar or identical services.” 29 C.F.R. § 553.103(a).
    - b. Determining whether an employee’s volunteer services are the “same type” as those he/she is employed to perform is a fact and context-specific inquiry. 29 C.F.R. § 553.103(a).
- B. If all prongs of this test are not satisfied, employees who are not exempt under the FLSA (e.g., nurses) must be paid for their time performing such services (i.e., “hours worked”).
1. If “hours worked” exceed forty (40) in a given workweek, non-exempt employees would be owed overtime pay for hours exceeding forty (40) in the workweek.
- II. Can students or other non-employees perform volunteer services for a non-profit?
- A. So long as the services are performed for civic, charitable, or humanitarian reasons and without the promise, expectation, or receipt of compensation for services rendered, there are no concerns under wage-and-hour laws.
- B. Different organizations may implement their own requirements, such as:
1. Limiting volunteering to employees of the organization, those who register through a formal volunteer office, or are credentialed with/by the organization.
  2. Limiting the roles or responsibilities of students who are not participating as part of a rotation or curriculum.
- C. No matter who is providing the services, the same level of care (including follow-up) must be provided.
- III. Are volunteers covered by workers’ compensation insurance?
- A. Because they are not “employees,” non-employee volunteers are generally not covered by an organization’s workers’ compensation insurance policy.
1. For workers’ compensation purposes, an organization may want to have employee-volunteers sign a form in which they agree that they are not acting in their capacity as an employee when volunteering.
- B. Organizations may carry some sort of “volunteer insurance” which provides some coverage for injuries suffered by volunteers while engaging in volunteer services.
- C. Please note that this analysis is limited to Pennsylvania law and may differ under other states’ workers’ compensation laws.
- IV. What are the rules and regulations pertaining to dispensing medication on the street?
- A. The dispensing of medications is regulated on the state level by the state’s pharmacy or medical board.
- B. Laws and regulations vary by state as to which practitioners can dispense medication and the types of medications that can be dispensed.

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