



Volunteers

by John D. Whitaker

A friend of mine is a volunteer for Casper's Meals on Wheels program. She tells a wonderful story that perfectly illustrates today's topic.

It seems she was dispatched to deliver a hot meal to an elderly woman on the outskirts of town. When she arrived at the house, there was no answer to the doorbell. The volunteer entered the house to put the meal in the refrigerator. When she got to the kitchen she heard a plea for help coming from the bathroom. When the volunteer opened the bathroom door she found that the elderly resident had been the victim of poor aim and had fallen to the side of the toilet and had become wedged securely between the toilet bowl and the wall. The volunteer assessed the situation and concluded that the safest plan to deal with this emergency was to call the fire department paramedics to help dislodge the woman. After calling for help the volunteer went back into the bathroom to explain the plan to the elderly woman. After hearing the plan the elderly woman reluctantly agreed to wait for the fire department, but she made one request for help from the volunteer. She said, "As long as we're stuck here dearie, how about putting down the lid so that I can eat my lunch?"

Most states have what are called "Good Samaritan" laws which are designed to get people to help out in emergencies. The scope of these laws vary significantly from state to state, but Wyoming provides a very broad range of protection to volunteers from civil liability depending upon the context of the care provided. The two main contexts cover physicians and surgeons or other people rendering emergency assistance at the place of an accident or emergency; and volunteers who regularly provide assistance to people through nonprofit organizations and volunteer fire departments. The law is somewhat different for each situation.

Physicians and surgeons or other people who render



emergency care or assistance at the place of an emergency or accident cannot be sued personally for mistakes they make in dealing with the emergency so long as they are found to be acting in good faith. To qualify as a volunteer one must provide the service without any compensation. This means that if you are being paid to help at an emergency scene you are not a volunteer, and therefore you could be exposing yourself to civil liability for mistakes. These laws do not prevent lawsuits from being filed, but they generally absolve the volunteer from personal liability if the care is provided at an emergency scene, without a fee for the services, and the volunteer acts in good faith.

The second situation is where the volunteer does work for a nonprofit organization or a volunteer fire department. In this context, the volunteer is personally immune from suit so long as his actions do not rise to the level of willful or wanton misconduct or gross negligence. Willful or wanton misconduct occurs when you use bad or malicious intentions in providing assistance. Gross negligence has been defined as the breach of a duty to exercise the level of care even an unreasonable or imprudent person would use in dealing with the situation. I suppose a simple example of this would be to try to use a hammer to stop a wound from bleeding. There is one important exception to the rule concerning volunteers working for nonprofit organizations. The immunity does not apply if while performing your duties you cause damage as the result of the negligent operation of a motor vehicle. In that case, ordinary negligence law applies.

Volunteers are the lifeblood of many of the organizations in our city, and they work hard every day to make the less fortunate members of our community lead better, safer and happier lives. So if you are not volunteering now, get going. There is no better way to show that we all matter than to have a nice lunch with a perfect stranger who has been trapped by a toilet.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.