Volunteer Driver Liability Report: An Issue, Not a Barrier in Florida
Background

In September 2010, the Florida Department of Transportation partnered with Florida State University’s Pepper Institute on Aging and Public Policy to form the Safe Mobility for Life Coalition to help implement their aging road user program. The Coalition brings together 27 different agencies and organizations that have responsibilities and interests in aging road user safety, mobility, and support safe mobility for life.

Together, we are working to reduce crashes for Florida’s aging road users by improving their safety, access, and mobility.

Disclaimer

The opinions, findings, and conclusions expressed in this publication are those of the author(s) and not necessarily those of the Florida Department of Transportation or the U.S. Department of Transportation.
Introduction

When starting Volunteer Driver Programs, liability issues often arise and are important for organizations and individuals to think about. Understanding the potential risk is crucial in having a successful volunteer driver program. Given the tools to manage this risk, providing such services should allow for community to embrace older adults in their community with integrity and provide them with a better quality of life.

The Safe Mobility for Life Coalition is working to provide these tools to help maintain the mobility of Florida’s aging population. It is the mission of the Coalition is to improve the safety, access and mobility of aging road users by implementing a comprehensive strategic plan to reduce injuries and crashes among this vulnerable population. Often, this is done through aiding individuals through each stage of their driving lives.

Transitioning from driving is a key component to this continuum and identified as an emphasis area in Florida’s Aging Road User Strategic Safety Plan to help bridge the gap between driving retirement and mobility independence. Developing and increasing community based mobility options are vital to help individuals successfully transition from driving. Volunteer driver programs are viable alternative transportation options that can accommodate the unmet mobility needs of our vulnerable population, in both rural and urban communities.

The goal of this report is to provide organizations and communities the knowledge to deal with liability questions when considering starting a volunteer driver program or become involved in one to keep Florida’s aging population safe and mobile.

Key Considerations

The following are important concepts for communities to take into account when planning a volunteer driver program.

- Have policies and procedures in place to proactively manage risk, including training in passenger interaction and support, emergency procedures, vehicle maintenance and repair, etc.
- Document your process for recruiting volunteers, conducting background screening including driver license check and evaluating volunteer drivers.
- Provide robust training for your volunteers including safety tips and strategies.
- Ensure that each volunteer has their own insurance and provides documentation.
- Encourage drivers to take a driver safety class every three years.

**Framework for Transportation Services**

The Beverly Foundation developed 5 A’s for senior transportation services which serves as a useful framework for service providers and clients. The criteria include:

- **Availability**: Transportation exists and is available when needed (e.g. transportation is on hand evenings and/or weekends).
- **Accessibility**: Transportation can be reached and used without difficulty.
- **Acceptability**: Standards relating to conditions of the vehicle such as cleanliness, safety, location of bus stops, user friendliness, and driver courtesy are in place.
- **Affordability**: Deals with costs (e.g., fees are affordable; fees are comparable to or less than driving a car your own vehicle).
- **Adaptability**: Transportation can be modified or adjusted to meet special need of those requiring the accommodation of wheelchairs or other assistive devices.

More detailed information on the criteria can be found on the Beverly Foundation Legacy Series website.

**Volunteer Driver Programs and Potential Risk**

Volunteer driver programs are an important part of the variety of transportation options available to older adults. There are a wide variety of models and organizing principles, but they are all designed to meet the specific needs of seniors in a local area. These programs are a wonderful way for volunteers to give back to the community and provide mobility options for older adults to remain connected to their community.

Questions about liability concerns frequently arise early-on in discussions among organizations considering starting this type of program and with individuals considering becoming volunteers. The Coalition examined the issue to address these concerns and concluded that exposure to risks is a cost of doing business, but should not be a barrier to developing volunteer driver programs in Florida.

**Program Models and Associated Risk Levels**

The provision of transportation services will always have an inherent amount of risk associated with moving individuals from place to place. It is crucial to consider these important issues when designing a volunteer driver program or becoming involved in supporting its efforts. The
types of services delivered have a direct bearing on exposure to liability. Vehicular movement carries with it the same type of risk that we all bear whenever we operate a motor vehicle. Service to special needs populations, such as dialysis patients or individuals with dementia may present additional demands. In addition, the type of service may introduce other risk factors, such as:

<table>
<thead>
<tr>
<th>Type of Service</th>
<th>Type of Risk</th>
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<tr>
<td>Curb to Curb</td>
<td>Tripping, falls outside of vehicle; stepping up or down from curb</td>
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<tr>
<td>Door to Door</td>
<td>Above, plus slips, falls, dropped items; passenger fragility; sidewalk</td>
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<tr>
<td>Door through Door</td>
<td>Above, plus entry into residence; access to personal space</td>
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<tr>
<td>Supportive Transportation</td>
<td>Above, plus involvement with other individuals and/or service providers</td>
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Potential Impact to Volunteers

A volunteer driver’ insurance policy is always the first line of coverage. It is important for this to be disclosed and discussed with potential volunteers during recruitment and training. They should also know that their insurance rates will not increase if they become a volunteer driver because there are specific Florida Statute references that prevent this from happening:

1. **Refusal to Issue Policy** (Section 627.7261, F.S.,): Includes a definition of volunteer driver “...a person who provides services, including transporting individuals or goods, without compensation in excess of expenses...” and cannot deny coverage or impose surcharge/increased rates for volunteer drivers.
2. **Good Samaritan Act** (Section 768.13, F.S.): This applies only to emergency or public health emergency situations.
3. **Florida Volunteer Protection Act** (Section 768.155, F.S.): Volunteers are considered to be an agent of a non-profit organization if they are acting within the scope of their duties and there is no misconduct.

The Federal Volunteer Protection Act (VPA) of 1997 grants some protection for volunteers as well as guidance for states. The VPA makes volunteers of nonprofit organizations or governmental entities generally immune from civil liability...acting in his/her official responsibilities. The volunteer is not immune if her/she was not properly licensed or if harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. Additionally, the volunteer is not immune if the misconduct constitutes a violent crime... Most significantly..., the volunteer is immune only if the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft or other vehicles....The Federal law does not affect the right of government agencies or nonprofit organizations to sue volunteers.
Additionally, the law does not provide protection from civil actions directed at nonprofit organizations or governmental agencies.

**Volunteer Drivers Are Not Risky Drivers**

There is no evidence that volunteer drivers are dangerous drivers. In fact, they are considered a safe alternative due to the experience of the drivers. Nationally, programs report an extremely low crash rate involving bodily injury or property damages. For all volunteers, driver safety education and in-service programs are important and should be conducted on a regular basis. Some drivers may reach a point where they should stop volunteering as drivers but they can pursue supporting their organization in other ways; such as office help, fundraising, recruiting, etc.

**Key Components When Developing Volunteer Driver Programs**

Detailed guidance on management and operation of volunteer driver programs is available elsewhere. The intent of this document is to deal specifically with the specific issue of liability matters. See reference section for possible sources for more general information.

**Risk Management Strategies**

Develop a proactive program to limit your risk exposure through careful volunteer recruitment, vetting, and training. Make careful decisions about the type of services you will provide, area of coverage and other service parameters. Organizational policies should define the scope of services and procedures in case of an emergency. Ensure that all volunteers and staff are well-oriented and compliant with these policies. You need an active process for customer feedback on individual drivers and the volunteer driver program itself.

**Invest in Driver Education**

Be sure to devote the time and energy into a robust volunteer training program which provides orientation, ongoing training, and periodic evaluation/performance reviews for volunteers and staff. Listen to your volunteers and your customers regarding possible training needs. Partnering opportunities may exist for your program; such as having your volunteers participate in driver safety education every three years or by providing CarFit experience for all of your drivers.
Types of Insurance to Consider
The following types of insurance coverage should be in place when developing a volunteer driver program.

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<tr>
<th>Type</th>
<th>Applicability</th>
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<tr>
<td>Basic Organizational Insurance</td>
<td>General Liability; Directors and Officers; Personal Property</td>
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<tr>
<td>Specific Program Coverage</td>
<td>Commercial Liability Insurance</td>
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<tr>
<td>Driver</td>
<td>Excess Auto; Volunteer Liability coverage (coverage above &amp; beyond individual volunteers personal auto insurance)</td>
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Conclusion

The Safe Mobility for Life Coalition has made it their mission to serve Florida’s aging population in maintaining their safety and mobility throughout every stage of their lives. The provision of safe and reliable alternatives to driving for older adults is crucial, especially within the state of Florida. Volunteer driver services offer older adults the alternative to driving, while allowing them to maintain their lifestyle and everyday mobility. Unfortunately, volunteer driver liability often gets called into question and may become a perceived barrier to establishing a program.

By understanding the potential issues of volunteer driver liability, organizations can ensure that it does not become a barrier to establishing volunteer driving programs as a viable transportation option to older adults within their communities.
Terminology

<table>
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<th>Terms</th>
<th>Description</th>
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<td>Aging Road User</td>
<td>Someone over the age of 50 and includes drivers, passengers, pedestrians, motorcyclists, bicyclists, transit riders, and golf cart drivers, specifically focusing on the 65 years and older age group.</td>
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<td>CarFit</td>
<td>A community-based educational program developed by AARP, AAA and the American Occupational Therapy Association. The safety program is designed to help aging drivers improve the “fit” of their vehicle for their safety and comfort, promote conversations among older adults and families about driving safety, and link adults with relevant local resources that can help them drive safer longer.</td>
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<tr>
<td>Direct Liability</td>
<td>Organizational responsibility for property damage, bodily injury, etc.</td>
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<td>Exposure</td>
<td>Situation in which the potential for liability may exist. Involves both driver, passenger, and vehicle.</td>
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<td>Indirect Liability</td>
<td>Relates to negligence.</td>
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<td>Risk Avoidance</td>
<td>Policies and strategies organizations and individuals take to lessen liability potentials. Being proactive to manage risks</td>
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<td>Risk Sharing</td>
<td>Spreads risk among multiple parties.</td>
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<td>Risk Transfer</td>
<td>Transfers risk to insurance company, by virtue of insurance policy in effect.</td>
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<td>Strict Liability</td>
<td>Not any question about situation which assigns fault.</td>
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References

Beverly Foundation Legacy Series, [www.beverlyfoundationlegacy.org/volunteerdriver](http://www.beverlyfoundationlegacy.org/volunteerdriver), 5A’s of Senior Transportation’

Chapter 627, Insurance Rates and Contracts, Section 627.7261, F.S., Refusal to issue policy

Chapter 768, Negligence, Section 768.13, F.S., Good Samaritan Act; immunity from civil liability

Chapter 768, Negligence, Section 768.1355, F.S., Florida Volunteer Protection Act

National Center on Senior Transportation

National Conference of State Legislatures, “Volunteer Driver Liability and Immunity”, 12/06

National Volunteer Transportation Center (Community Transportation Association of America)

Volunteer Protection Act of 1997

Winter Park Health Foundation “Florida’s Volunteers: The Driving Force for Senior Mobility-Identifying Barriers and Enabling Change”, December, 2006