

**MARCH 2024** 

Volunteer Drivers: An Essential Lifeline



## **About the South Carolina Institute of Medicine and Public Health**

The South Carolina Institute of Medicine & Public Health (IMPH) is an independent entity serving as an informed nonpartisan convener around the important health issues in our state, providing evidence-based information to inform health policy decisions. For more information on IMPH publications, initiatives and events, please visit www.imph.org.

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## Introduction

In 2022 and 2023, the South Carolina Institute of Medicine and Public Health (IMPH) convened a taskforce to examine the phenomenon of social isolation and its effect on the health of South Carolina's older adults. The taskforce produced a set of recommendations to prevent and combat social isolation in older adults in South Carolina categorized into four topic areas: Programs to Promote Social Connectedness, Data and Information Sharing, Digital Literacy and Technology and Transportation Services.¹ Looking specifically at the recommendations falling under Transportation Services, two strategy areas emerged:

**TS1:** The state of South Carolina should develop a policy to ensure volunteer protections for volunteer drivers, including reducing insurance obstacles for volunteer drivers.<sup>1</sup>

**TS2:** The Transportation Association of South Carolina, in partnership with the South Carolina Department of Transportation, should conduct a statewide study of public and private transportation options available to older adults.<sup>1</sup>

**TS2a:** As a focus of the study, identify possible funding sources that may be leveraged to increase transportation options for older adults in South Carolina.<sup>1</sup>

**TS2b:** As a focus of the study, identify and highlight successful local partnerships on transportation.<sup>1</sup>

While the limited availability of services for the older adult population was identified as an area for improvement, members of the taskforce identified many programs available throughout the state. However, members also found barriers that prevented older adults from consistently taking advantage of those services.

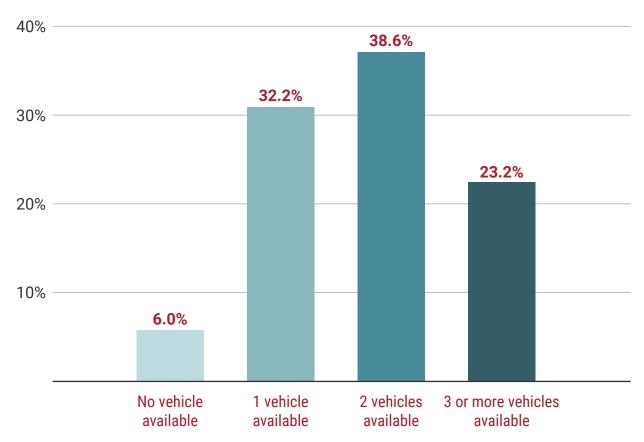
Myriad issues prevent people, especially older adults, from accessing and obtaining services they need. One such issue, as identified by taskforce members and long documented as an accessibility barrier to social and health services in our state, is availability of transportation. Lack of accessible and convenient transportation options makes it difficult for older adults to visit their health care providers, utilize available services and partake in social opportunities. Barriers to these services and destinations increase the likelihood that older adults will experience negative health consequences that result from social isolation.

# **Background**

As people age, options for transportation become increasingly limited with many households not having a vehicle. Nationally, men outlive their driving expectancy by seven years and women by 10 years.<sup>2</sup> Once someone makes the difficult decision that driving is no longer an option, they are likely to rely on family members or friends, often straining limited family resources. At a 2022 data walk, the South Carolina Department of Health and Environmental Control (SC DHEC) presented Census data that revealed 38.2% of South Carolina families operate with one or fewer vehicles in the household, an additional barrier to mobility freedom.<sup>3</sup>

FIGURE 1

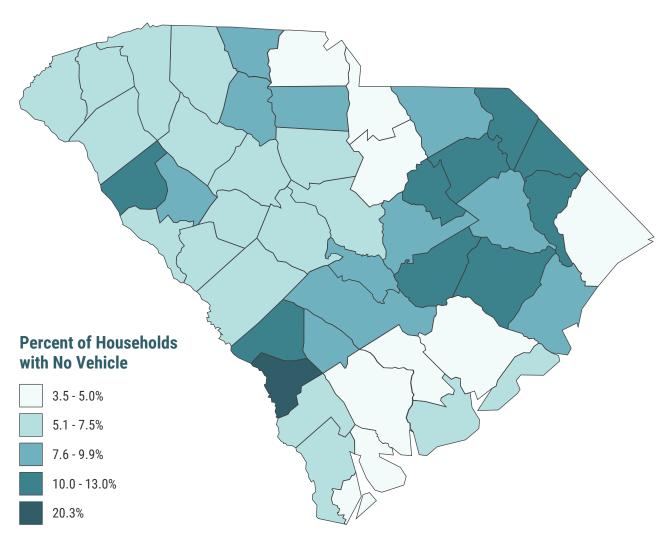
## Transportation Availability in South Carolina Households, 2020



Source: US Census Bureau: American Community Survey 5-Year Estimates, 2020

Limited access to vehicles is a bigger problem when regional differences are considered. Households in rural counties are less likely to have access to multiple cars. In Allendale County in 2018, over 20% of households were without a vehicle at all.4,5

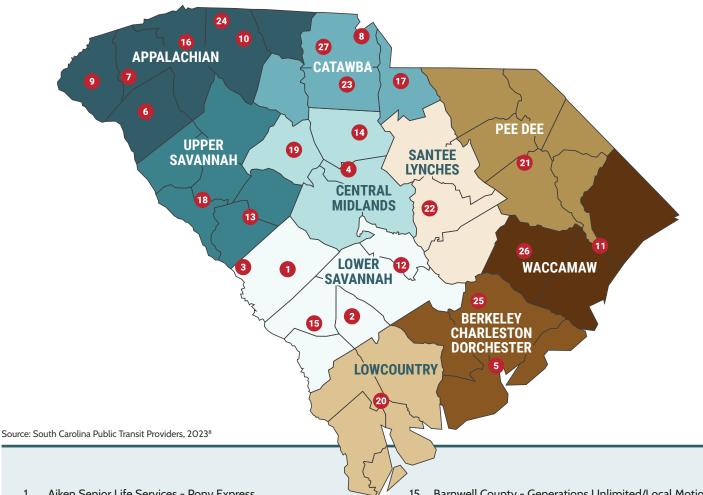
## Percent of Households with No Vehicle Availability by South Carolina County, 2018



Source: US Census Bureau American Community Survey, 2014-2018

Taxis and rideshares can be an option for some that live in more urban settings and can afford it, but these choices are less accessible. For those on fixed incomes, calling a cab or an Uber can be a problematic expense. Options are even more limited for those with disabilities. Use of a service animal or a mobility aid can further complicate the experience. In South Carolina, 14.5% of residents live in non-metro areas and are considered our state's rural population.<sup>6</sup> Additionally, 19.1% of the total population of our state is over 65.<sup>7</sup> Currently, 27 public transit providers operate in the state, and many of those do not service rural areas where there is a high need.<sup>5</sup>

## **Map of Public Transit Providers in South Carolina**



- 1. Aiken Senior Life Services - Pony Express
- 2. Bamberg County Office on Aging - Handy Ride
- Lower Savannah Regional Transit Management 3. Agency - Best Friend Express
- 4. Central Midlands Regional Transit Authority The COMET
- Charleston Area Regional Transit Authority (CARTA) 5.
- City of Anderson Electric City Transit 6.
- 7. City of Clemson Transit - Clemson Area Transit/CATbus
- City of Rock Hill My Ride
- City of Seneca Transit (Public Transportation provided by CATbus)
- 10. City of Spartanburg Spartanburg Area Regional Transit Agency (SPARTA)
- 11. Waccamaw Regional Transit Authority Coast RTA
- 12. Orangeburg County Cross County Connection
- 13. Edgefield County Senior Citizens Council Peach **Blossom Express**
- Fairfield County Transit System

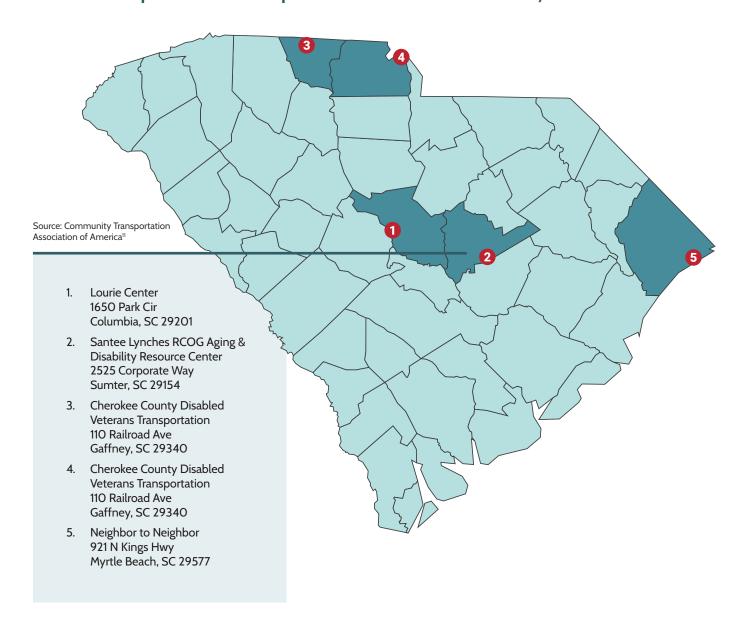
- Barnwell County Generations Unlimited/Local Motion
- 16. City of Greenville Greenlink
- 17. Lancaster County Council on Aging Lancaster Area Ride Service (LARS)
- 18. McCormick Area Transit
- 19. Newberry County Council on Aging
- 20. Lowcountry Palmetto Breeze
- 21. Pee Dee Regional Transit Authority (PDRTA)
- 22. Santee Wateree Regional Transportation Authority (SWRTA)
- 23. Senior Services, Inc. of Chester County Chester Connector
- 24. Spartanburg County Regional Healthcare System
- 25. TriCounty Link (Berkeley, Charleston, and Dorchester Counties)
- 26. Williamsburg County Williamsburg County Transit System
- 27. York County Council on Aging York County Access

Even in counties that have more robust public transportation options, the distance between an older adult's home and the access point for a bus can be prohibitive. If the station or stop is itself accessible in terms of distance, navigating with a wheelchair or other mobility aid can be very difficult.

In addition to relying on friends, family and public transport, some older adults use volunteer driver services for transportation. Volunteer drivers typically transport people using their personal vehicles on a schedule developed by the organization for which they are volunteering. These organizations typically vary in terms of their structure, funding sources, 501c3 status, reimbursement policies and logistics. In 2016, the National Volunteer Transportation Center (NVTC) documented more than 800 volunteer transportation programs across the country. 9,10 Currently there are five volunteer transportation programs in South Carolina.11

MAP 3

## Map of Volunteer Transportation Providers in South Carolina, CTAA 2023



It has been demonstrated that mobility freedom is directly related to social engagement within communities and often is determinate of whether an individual has access to vital resources and services. 12 While the definition of mobility freedom is multifaceted, the advantage of volunteer transportation networks is the flexibility to meet needs unique to the communities they serve. Current public transportation options and transportation network companies (TNCs) are simply unable to adapt to those needs. Volunteer drivers can better meet the needs of individuals with limited mobility and fulfill their transportation needs while encouraging social connectedness within their communities.

Volunteer driver programs rely on people willing to use their own cars to connect clients to services. Thus, volunteers rely on personal insurance to cover themselves and their passengers while driving. Organizations have historically had trouble recruiting and retaining these volunteers. People have many concerns about increasing insurance premiums and refusals of insurance coverage if they have an accident while driving as a volunteer, regardless of fault.

Organizations are unsure about where liability for accidents lies and did not know how far their own insurance would extend. When some drivers consulted their insurance companies, they were told that they needed additional coverage. 14,10 Others were told that they would be dropped from their policies if they pursued volunteer driving.<sup>10</sup>

The ambiguity in both legislation and insurance policies presents a significant barrier to the successful operation and sustainability of volunteer driver networks. Volunteer organizations and individual volunteers offering transportation services face a myriad of barriers, one of the most significant being navigating insurance policies to ensure that drivers, passengers and bystanders are protected in the event of an accident. The rise of services like Uber and Lyft have complicated the matter further, as many insurance companies have been slow to distinguish between people using their personal cars to make money and using them to provide transportation on a volunteer basis.10

The personal insurance of the driver is often the first used in case of an accident that results in injury or property damage. 9,10 The NVTC recommends that volunteer driver programs carry additional policies to cover volunteer drivers in the case of an accident. Some volunteer programs recommend that individual volunteers carry a personal umbrella policy to add extra liability coverage over and above their regular auto insurance policy.<sup>10</sup> Whether the cost for enhanced coverage is placed on the organization or the volunteer, the cost of insurance makes it less likely that either can provide such services.

Members of the Social Isolation Taskforce identified concerns about insurance coverage and liability for volunteer drivers as the primary reason that there are so few volunteer driver programs in the state. Organizations have long advocated for policy intervention on the state level to alleviate risk for volunteers. In many states, laws mandate levels of coverage for different purposes and classes of vehicles.

Additionally, laws meant to govern rideshare and taxi drivers have unintended consequences for people using their cars to provide rides that are facilitated by the organization for which they are volunteering. The Greater Wisconsin Agency on Aging Resources found that because of ambiguity in the laws, volunteer drivers were being denied for claims filed because they did not carry insurance offered to drivers for rideshares like Uber or Lyft. 10,15

As volunteer transportation services expand their accessibility through the use of online platforms and apps to connect riders to drivers, their distinction from taxis and rideshares is increasingly necessary. Despite a lack of evidence suggesting there is an increased risk associated with volunteer driver status, volunteer drivers are frequently assigned to a high-risk insurance category due to the increasing popularity of rideshares over the last decade.10

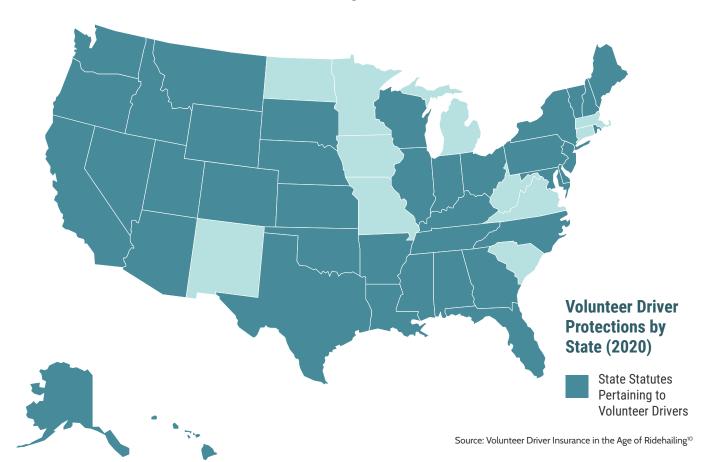
# **Currently in South Carolina**

A Transportation Network Company, or TNC, is defined in the state as a person, partnership, corporation, sole proprietorship or other entity operating in South Carolina that uses a digital network, platform or internetenabled application to connect a passenger to a driver and provides the transportation for compensation.<sup>16</sup> South Carolina is one of seven states that currently have laws that differentiate TNC services from nonemergency medical transport (NEMT) services or transport services covered by Medicaid.<sup>17</sup>

However, South Carolina has no laws that address civil liability for either the volunteer drivers themselves or the organizations that utilize volunteer drivers. Similarly, there are no laws that govern insurance for volunteer drivers distinct from other drivers, whether personal or for-profit. About a third of states have statutes that explicitly address insurance for volunteer drivers, but only seven prohibit insurers from denying or canceling coverage or increasing rates after an accident.10

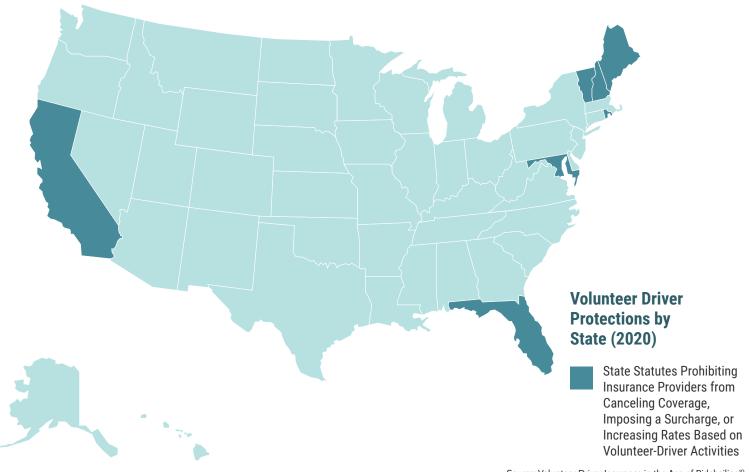
MAP 4

## **States with Statutes Pertaining to Volunteer Drivers**



MAP 5

## States with Statutes Prohibiting Insurance Providers from Canceling Coverage, Imposing a Surcharge or Increasing Rates Based on Volunteer-Driver Activities



Source: Volunteer Driver Insurance in the Age of Ridehailing<sup>10</sup>

The federal Volunteer Protection Act of 1997 was passed to encourage volunteerism by protecting people from civil liability for incidents that happen during volunteer work, but the law exempts harm caused by motor vehicles from that protection.<sup>18</sup> Some states have chosen to extend that protection to volunteer drivers via state statute, but South Carolina has not. While many organizations are expanding networks of mobile units to deliver medical and social services directly to communities across the state, public transportation options in South Carolina are limited, especially in rural parts of the state. Although South Carolina has legislation in place that distinguishes the term TNC from NEMT, there is no legislation addressing liability for volunteer drivers.<sup>10</sup> South Carolina has legislation that provides an extensive definition for TNCs (Section 58-23-1610) but does not differentiate a TNC from a volunteer transportation network.

Several states have adopted legislation that bars insurance providers from denying insurance, canceling insurance, imposing a surcharge or increasing rates solely based on volunteer driver status. Washington, Maryland, California and Oregon have legislation protecting individuals who share their personal vehicles from losing their personal auto insurance. States that have adopted legislation that protects volunteers of state agencies include Georgia, Nebraska, Ohio and Wisconsin. Arizona and California have adopted statutes that "exclude volunteer drivers from the categories of vehicles and services defined as public or livery conveyance, common carrier, or for-hire service, commercial categories that are generally excluded from personal auto policies and may be more expensive."10 Both Arizona and California also prevent volunteer drivers from having to purchase commercial policies simply because they are offering volunteer transportation services.

Some advocates are reluctant to support laws that would extend liability protection to volunteer drivers because of the nature of car accidents and the need for redress for those who are injured. The AARP National Office, for example, opposes such legislation on the basis that "such immunity would undermine the ability of those injured in a crash to draw on insurance policies designed to protect all road users."10

Two neighboring states, Tennessee and Georgia, have chosen to pass laws that address insurance and liability for volunteer drivers.

**CASE STUDY 1** 

# Georgia

## **Background**

At the time this legislation was proposed, Georgia was developing a plan to create a continuum of care to provide services to meet the needs of the older population. This need was projected to significantly increase through 2020. Volunteer services were identified as a vital component to the success of these programs. The proposed legislation addressed the barriers preventing individuals from volunteering their time and services.

## **Policy Development**

Georgia is one of the few states that has adopted legislation that not only addresses civil liability for volunteers and organizations, but also has legislation in place that specifically addresses volunteer insurance. They also protect volunteers of state agencies by allowing a state agency to provide liability insurance coverage for volunteers including excess auto protection. Georgia also has a state statute that distinguishes TNCs from NEMT services, as well as statutes addressing civil liability for organizations that engage in volunteer services.

The initial amendment proposed would transfer the oversight of services for the aging to the Department of Community Health, the state's Medicaid administrator, and would establish a community care unit within the Division of Medical Assistance.<sup>19</sup> It is explicitly stated that the lead agency will not only be responsible for recruiting volunteers, but will also provide appropriate insurance coverage including excess automobile liability protection to shield volunteers from personal liability while acting within the scope of their assignments.<sup>19</sup> While the proposed organizational structure may not be feasible or the best fit for every state, this legislation can serve as an example of approaches more robust than the expansion of Good Samaritan laws that provide general immunity for accidents that happen while a person is providing emergency care or assistance. These proposed statutes might also make more specific the Volunteer Protection Act that addresses civil liability for both individual volunteers and organizations and volunteer insurance. The current statute is as follows:

#### O.C.G.A. § 49-6-63

**49-6-63.** Establishment by lead agency of community care service system; certificatio for benefits; valuation by assessment team; volunteers; insurance coverage.

- (a) Each lead agency shall be responsible for the establishment of a community care service system which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons through the provision of community-based services. Each community care service system shall provide no fewer than six of the services listed in subsection (c) of this Code section, four of which shall include case management, assessment of functional impairment and needed community services, homemaker, and home health care services. Case management services shall be provided to each community care service recipient to ensure that arrangements are made for appropriate services. If independent living is no longer possible for a functionally impaired elderly person, the case manager shall assist the person in locating the most appropriate, least restrictive, and most cost beneficial alternative living ar angement.
- **(b)** All existing community resources available to the functionally impaired elderly person shall be coordinated into the community care service system to provide a continuum of care to such persons. The lead agency shall establish agreements, policies, and procedures for service integration and referral mechanisms with such programs.
- **(c)** Services to be coordinated by the lead agency shall include, without being limited to, the following:
  - (1) Case management;
  - (2) Assessment of functional impairment and needed community services;
  - (3) Homemaker services;
  - (4) Home health care services;
  - (5) In-home personal care services;
  - (6) Adult day health services;
  - (7) Adult day care;
  - (8) Habilitation services;
  - (9) Respite care;

- (10) Older Americans Act services, including transportation, nutritional, social, and other services;
- (11) Title XX services:
- (12) Senior center services;
- (13) Protective services:
- (14) Financial assistance services, including, but not limited to, food stamps, Medicaid, Medicare, and Supplemental Security Income;
- (15) Health maintenance services; and
- (16) Other community services.
- (d) Priority in provision of community care services shall be given to those individuals who have been certified for skilled or intermediate institutional nursing care se vice benefit conferred by the "Georgia Medical Assistance Act of 1977" and who need home and community-based services in order to avoid institutionalization. Services may be provided to other functionally impaired persons as resources allow, as determined by the department. Priority in provision of community care services to such other persons shall be based on economic, social, and medical needs.
- (e) All individuals seeking certification for benefits conferred by the "Georgia Medic Assistance Act of 1977," as amended, to be used to pay the cost of placement in a longterm care facility or individuals who would be eligible for such benefits within 180 days o nursing home admission, shall, as a precondition to such certification, undergo valuation by an assessment team designated by the lead agency to determine if institutionalization can be avoided by provision of more cost-effective community based services. If the individual being evaluated requires community-based services which, over a 12 month period, would cost more than the cost of care in a long-term care facility, then such community based services shall not be deemed cost effective. Such cost-effective determination shall apply to each case management evaluation. The assessment team shall, at a minimum, consist of a physician, a registered nurse, and a social worker. Whenever possible, the assessment team shall be responsible for the precertification for nursing home placement and determination o the appropriate level of care, as required by the State Plan for Medical Assistance, as define in the "Georgia Medical Assistance Act of 1977."
- (f) The decision of the assessment team shall be forwarded to the department designated in the State Plan for Medical Assistance, as defined in the "Georgia Medical Assistance Ac of 1977," as responsible for the certification of benefits for individuals. If the assessme team and the case manager have determined that an individual could be better and more cost effectively served in the community, the department shall not certify such individual for skilled or intermediate institutional nursing care service benefits until the lead agenc has informed such individual of the availability of community based services within the lead agency's geographic service area and of the right of such individual to choose to receive those services as an alternative to placement in a long-term care facility. Such individual shall advise the lead agency of his or her choice of service alternatives. If such individual is otherwise eligible for those benefits for which ce tification is sought, the depa tment shall certify the individual either for placement in a long-term care facility or for receiving community-based services, as the individual advised the lead agency. The evaluation and certification shall be completed in a timely manne.

(g) The lead agency shall seek to utilize volunteers to provide community services for functionally impaired elderly persons. The department may provide appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments in the community care service system. Coverage may also include excess automobile liability protection.

While Georgia's legislation is specific to organizational structuring and partnership amongst agencies and providers, it serves as an example of legislation addressing three key components of volunteer liability. Recommendations include incorporating verbiage to eliminate ambiguity around vehicle-for-hire status and volunteers, as well as differentiating TNCs from volunteer service organizations.

#### **Outcomes**

In addition to the adoption of legislation addressing the civil liability of both volunteers and organizations and volunteer insurance requirements, Georgia has convened the "Older Driver Task Team" as a core component of the "Georgia 55+ Driver Safety Program." The team employs a public health approach and develops collaborative partnerships to reduce injuries amongst older drivers by offering resources and training, identifying opportunities to improve infrastructure for safer roadways and identifying opportunities for interventions. The task team aligns all activities with their five E's: Education, Engineering, Enforcement (policy), EMS and Evaluation.<sup>20</sup> Specific opportunities include:

- Driver Rehabilitation
- Approaching Alzheimer's: First Responder Training / Understanding Alzheimer's & Dementia
- Introduction to the Clinician's Guide to Assessing and Counseling Older Drivers
- A Focus on Pedestrian Safety for Older Adults
- Designing Roadways for the Aging Population
- Georgia Department of Driver Services Medical Review Process: Driving Safety for All Ages
- Department of Driver Services (DDS) Partnership
- Older Driver Safety (Train-the-Trainer) Workshop
- CarFit Program

While these programs may not encompass all volunteer transportation services, these efforts can serve as examples of how insurance agents might assess such risk. Despite insurance coverage and insurance rates typically reflecting driving experience, volunteer drivers are often assigned to a high-risk category simply because of volunteer driver status. Extending these programs to volunteer drivers or mandatory volunteer driver training can demonstrate to insurance agents that volunteers do not pose an additional risk.

## Tennessee

## **Background**

Roughly 85% of Nashville older adults have poor access to transit.<sup>21</sup> A study conducted in 2019 examining the motivations of volunteer drivers in a Tennessee senior ride program found that there is a strong desire to continue volunteering and that they feel as though volunteering not only allows them to give back to their community, but also allows them to meet their own psychosocial needs.<sup>22</sup> Despite legislation adopted in 2015 and strong evidence suggesting that residents are motivated to volunteer, why are volunteerism rates so low for volunteer transportation services?

## **Policy Development**

Tennessee is one of the few states with statutes that address civil liability to provide immunity to individual volunteers regardless of their specific role with a volunteer organization. Proposed and adopted in 2015, the Protection of Volunteer-Insured Drivers of the Elderly (PROVIDE) Act addresses the civil liability of both individual volunteers and their organizations. Senators Norris, Yager, Bowling and Ketron introduced Bill No. 117 acknowledging that there is a critical need to assist older Tennesseans who lack transportation, as 22% of their residents are projected to be over the age of 65 by 2020.<sup>23</sup> It is acknowledged that public transportation options in Tennessee are not sufficient to reach all 95 counties or the needs of the aging population. They identified volunteer drivers and volunteer transportation programs as a solution to alleviate barriers to transportation across the state and proposed this bill in an attempt to protect volunteer-insured drivers. The current statute is as follows:

Tenn. Code Ann. § 29-34-210 **29-34-210.** Protection of Volunteer-Insured Drivers of the Elderly (PROVIDE) Act.

- (a) As used in this section:
  - (1) "Charitable organization" means any charitable unit of a religious or civic group exempt from taxation under 26 U.S.C. § 501, including those supported wholly or partially by private donations;
  - (2) "Human service agency" means any human service unit, clinic, senior citizens program, congregate meal center, or day care center for the elderly, whether supported wholly or partially by public funds;
  - (3) "Volunteer" means an individual providing volunteer transportation who may receive reimbursement for actual expenses or an allowance to defray expenses of operating the vehicle used to provide transportation services, but does not receive compensation for the person's time; and
  - (4) "Volunteer transportation" means motor vehicle transportation provided by a volunteer under the direction, sponsorship, or supervision of a human service agency or a charitable organization.

(b) Any volunteer, who provides volunteer transportation for senior citizens through a charitable organization or human service agency, shall not be individually liable for any civil damages above the policy limits collectable from any policy of insurance that would be obligated to make payment on behalf of the volunteer or on behalf of a person or entity that would be vicariously liable for the volunteer's conduct when liability for civil damages is limited by this section for an injury to the senior citizen arising out of or resulting from the transportation if the volunteer was acting in good faith and within the scope of the volunteer's official actions and duties on behalf of the charitable organization or human se vice agency, unless the volunteer's conduct constitutes gross negligence or willful and wanton misconduct; provided, that the charitable organization or human service agency is liable for damages and maintains liability insurance coverage at least equal to the minimum limits set forth in § 29-20-403 of the Tennessee Governmental Tort Liability Act.

While this legislation is a step in the right direction, it does not fully protect volunteers and riders in the event of a crash. One of the most common approaches states utilize to provide immunity from liability is to narrowly tailor the statute to the type of organizations a volunteer may be affiliated with. Tennessee's PROVIDE Act states that volunteer drivers are only immune from liability above the policy limits of the volunteer's/organization's insurance policy, and only if the following circumstances are applicable:<sup>23,10</sup>

- 1. The harm was suffered by a senior citizen who benefited from the transportation service being offered.
- 2. The volunteer was serving a charitable organization.
- 3. The organization maintains a statutorily specified level of insurance coverage.

AARP's analysis explains that the level of specificity in this statute prevents volunteers from being protected from plaintiffs who may seek to recover damages that exceed the driver's insurance coverage. Essentially, all other drivers or road users can sue volunteer drivers for damages beyond the value of the driver's insurance for harm but individuals utilizing these services may not.

### **Outcomes and Recommendations**

While the legislation adopted by Tennessee addresses civil liability for volunteers and organizations, there are three remaining areas to be considered. Although this is another example of a unique approach outside of the expansion of Good Samaritan laws, specific verbiage is needed to clarify ambiguity around volunteer insurance and volunteer livery status and to differentiate these services from those provided by TNCs.

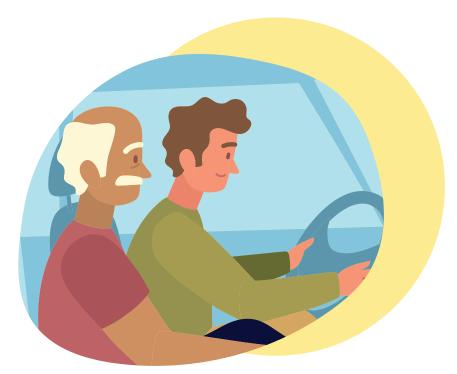
## **Conclusion**

Irrespective of specific organizational structure, the efficacy and sustainability of volunteer organizations are reliant on the successful recruitment and retainment of volunteers. Ambiguity in insurance policies and legislation pertaining to volunteer driver protections have negative implications on the recruitment and retainment of volunteers and ultimately reduce their capacity to deliver vital services as demand increases. Ongoing challenges with transportation in our state illustrate a need for legislative intervention to alleviate barriers to volunteer driver programs in the state. Whether the legislature wishes to address the issue of civil liability or insurance coverage for volunteer drivers, the issue begs for clarity.

Volunteer driving programs are an effective intervention in the fight against social isolation. Providers throughout the state express concern that they offer services that are effective in the fight against the health effects of social isolation, but barriers prevent meaningful engagement with the people who need those services most.

Volunteer transportation services are not only cost-effective for backbone organizations with minimal operational expenses, but they also enhance social connectedness through the fostering of mutually beneficial relationships between drivers and passengers when volunteers are successfully retained. Not only is volunteer recruitment and retainment crucial to the success of these transportation networks, but it is also imperative to alleviate barriers preventing drivers from obtaining adequate coverage.

Many states, including some neighbors who have similar geographic challenges, have found a way to ensure that volunteer drivers do not take on a prohibitive amount of risk. As the population of our state ages, the demand for these types of transportation programs will increase. It behooves our state to think now about solutions to this issue.



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