

Health Care Provider Liability Protections in Other States

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Good Samaritan Statutes

- Every state has a version of a Good Samaritan statute
- While there are some variations, the majority of these statutes are very similar to Virginia's Good Samaritan statute
 - Care for ill or injured persons must be rendered at the scene of the accident or emergency
 - Care must be rendered gratuitously
 - Typically only covers individuals providing care and not institutional health care providers, e.g., hospitals
- Like Virginia's, other states' Good Samaritan statutes are narrowly aimed at encouraging the provision of care at the scene of accidents or emergencies

Health Care Provider Liability Protections in Other States

Civil Defense/Emergency Services Laws

- Analogous to the Commonwealth of Virginia Emergency Services and Disaster Law (Va. Code § 44-146.13 et seq.)
- Liability protections limited to emergency management activities or the provision of emergency services

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

- Most laws do not expressly extend liability protections to health care providers but some may be interpreted to include such providers
- Examples
 - Alabama: “any ... worker, individual, partnership, association or corporation”
 - New Hampshire: “private corporations, organizations, or agencies”
 - Ohio: “any individual, partnership, corporation, association, trustee, or receiver, or any agent thereof”
- Difficult to determine how many states’ laws would extend liability protections to health care providers since the interpretation of these statutes is in the hands of each state
- At least 6 states explicitly provide health care provider liability protections

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

California: Cal. Gov't Code § 8659

- **Covers:** Physicians, surgeons, hospitals, pharmacists, nurses, or dentists
- **Applies:** State of war emergency, or declared state of emergency or local emergency
- **Requirements:**
 - Express or implied request of state or local official or agency
- **Standard:** Civil immunity except for willful acts or omissions

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

Indiana: Ind. Code §§ 34-30-13.5-1 through 34-30-13.5-3

- **Covers:** Licensed health care providers or facilities or other locations providing health care services
- **Applies:** Declared disaster emergency, regardless of whether the provision of health care services occurred before or after the declaration
- **Requirements:**
 - Services must be within the scope of provider's license
- **Standard:** Civil immunity except for gross negligence or willful misconduct

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

Louisiana: La. Rev. Stat. § 29:735.1

- **Covered:** Health care providers
- **Applies:** Declared state of emergency
- **Requirements:**
 - Care must be provided to persons injured as a result of the emergency
 - Care may be rendered in area subject to declaration or elsewhere
- **Standard:** Civil immunity except for gross negligence or willful misconduct

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

Maryland: Md. Code, Pub. Safety § 14-3A-06

- **Covered:** Health care practitioners or facilities, or licensed or certified emergency medical services providers
- **Applies:** Declared catastrophic health emergency
- **Requirements:**
 - Catastrophic health emergency limited to one involving exposure to deadly agent; deadly agent defined as various biological, chemical, or radiological agents
- **Standard:** Civil and criminal liability for acts in good faith

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

Michigan: Mich. Comp. Laws § 30.411

- **Covered:** Licensed hospitals; licensed health care providers; registered or practical nurses, or nursing students acting under supervision; dentists; veterinarians; pharmacists or pharmacist interns acting under supervision; paramedics; or medical residents
- **Applies:** Declared state of disaster
- **Requirements:**
 - Express or implied request of state or local official or agency or county or local coordinator or executive body
- **Standard:** Civil immunity except for willful or gross negligence

Health Care Provider Liability Protections in Other States Civil Defense/Emergency Services Laws

Minnesota: Minn. Stat. § 12.61

- **Covered:** Hospitals; nursing or boarding care facilities; medical clinics; physicians and physician assistants; nurses and nursing assistants; pharmacists, chiropractors, or dentists
- **Applies:** Declared national security emergency or peacetime emergency
- **Requirements:**
 - Number of ill or injured must be found to exceed the capacity of one or more regional hospital systems
- **Standard:** Civil immunity except for malfeasance in office or willful or wanton actions