



# GOOD SAMARITAN LAWS

*A Comparative Study of Laws That Protect First Responders Who Assist Accident Victims*

A research note by Dechert for SaveLIFE Foundation

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FOUNDATION  
IMPROVING ROAD SAFETY AND EMERGENCY CARE ACROSS INDIA

  
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# INTRODUCTION

India has the highest number of road accidents deaths in the world – almost 140,000 in 2012 alone. On average, 15 people die and 60 are seriously injured every hour in road accidents in India. 80% of road accident victims in India do not receive any emergency medical care within the critical first hour after an accident<sup>1</sup>. According to the Law Commission of India, 50% of fatalities could be averted if victims receive timely medical attention. This translates to 70,000 lives that could be saved.

While Police first-responders in most states are untrained to provide any medical aid, bystanders and passers-by choose to remain spectators for fear of getting involved in prolonged legal procedures. With emergency medical services missing or inadequate in most parts of the country, Police and bystanders can play a life-saving role for victims if trained and empowered to do so.

Road accident deaths and disabilities resulting from accidents could be drastically reduced if proper care is provided to the victim at the critical “Golden Hour”, during which there is the highest likelihood that prompt medical treatment will prevent death. Bystanders and Good Samaritans are therefore vitally important in preventing disability and death.

In July 2013, a national study titled: “Impediments to Bystander Care in India” conducted by SaveLIFE Foundation and TNS India

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1 Study by the Indian Journal of Surgery 2006

Pvt Ltd revealed that 74% of bystanders are unlikely to assist victims of road accidents. 88% of those bystanders gave the following reasons for their reluctance: legal hassles, including repeated police questioning and multiple court appearances. 77% of the respondents cited detention at hospitals and having to pay hospital registration fees and other charges as reasons not to help. Nearly 90% of the respondents suggested that a “Good Samaritan Law” should be introduced in India to provide a legal framework to encourage bystanders to assist victims without fear of negative repercussions.

SaveLIFE Foundation ([www.savelifefoundation.org](http://www.savelifefoundation.org)) is an innovative, non-profit organization, working to improve road safety and emergency care across India. They believe that India requires adequate legislation to protect bystanders and Good Samaritans so that they will come forward and help injured people on the road. SaveLIFE Foundation is working on a draft model Good Samaritan Law for India. They have also filed a petition in the Supreme Court of India asking for guidelines to be introduced to protect Good Samaritans from being harassed, intimidated or coerced.

SaveLIFE Foundation engaged TrustLaw, the Thomson Reuters Foundation’s global pro bono service, to provide a legal analysis of Good Samaritan Laws across various jurisdictions on a pro bono basis. Through TrustLaw, SaveLIFE Foundation was connected to lawyers who provided an overview of Good Samaritan laws in England and Wales, France, the People’s Republic of China and the United States.

SaveLIFE Foundation is using this research note to assist them in drafting state-specific Good Samaritan statutes for India. This research note was also submitted to the Supreme Court of India as further reference material to inform the process of drafting interim protection guidelines for Good Samaritans.

# EXECUTIVE SUMMARY

Dechert LLP

This research was produced for SaveLIFE Foundation for their use in drafting model Good Samaritan legislation for India.

Good Samaritan laws protect persons who choose to assist others who are injured. Such laws have historically been intended to reduce the hesitation of bystanders to assist an injured party, for fear of being sued or prosecuted for unintentional injury or wrongful death.

The research provides an overview of Good Samaritan laws in England and Wales, France, the People's Republic of China and the United States. Certain jurisdictions (e.g. the state of Vermont and France) impose an affirmative obligation on a person to provide assistance to an injured party, if such person can do so without danger or peril to any person.

The majority of U.S. jurisdictions, as well as England and Wales and the People's Republic of China, do not impose an affirmative obligation as part of the Good Samaritan statutes. Rather, such jurisdictions provide civil and/or criminal liability protection for any person that provides assistance to an injured party, provided that the requisite statutory requirements are met.

While Good Samaritan laws vary by jurisdiction, such laws commonly specify the class of persons to whom the statute applies and contain three basic requirements:

- (i) the rendering of emergency care;
- (ii) in good faith; and
- (iii) gratuitously.

With respect to the class of persons covered, Good Samaritan laws commonly distinguish between medical and/or non-medical personnel and subject each group to different standards. Certain Good Samaritan laws provide clarification of the physical or temporal scope of rendering emergency care (i.e. that the care should be at the scene of the accident or at the hospital), so as to provide some limitation on when immunity is available.

The standard of care for persons who choose to provide assistance to an injured party may vary by jurisdiction (i.e. gross negligence, willful and wanton conduct). While there is some variation by jurisdiction, the standard of care is arguably lenient in accordance with the philanthropic purpose of Good Samaritan laws.

The "gratuitous" requirement may be modified and/or interpreted differently in statutes that apply to medical personnel in the performance of their duties.

# OVERVIEW OF GOOD SAMARITAN LAWS IN U.S. STATES, CHINA, FRANCE AND THE UNITED KINGDOM

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
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## AFFIRMATIVE DUTY TO ASSIST

### U.S. State

#### CALIFORNIA

#### CAL. HEALTH & SAFETY CODE § 1317

(West 2013)  
(Mandatory Emergency Services and Care at a Hospital)<sup>1</sup>

(see below for Good Samaritan immunity provision)

- A health facility which operates an emergency department must provide emergency services to anyone requesting emergency services, as long as the health facility has appropriate facilities and personnel.
  - » The facility cannot take into account economic status, insurance status, pre-existing medical conditions, citizenship, ethnicity, etc.
  - » However, the person requesting care must be in danger of loss of life, or serious injury or illness.
  - » The facility will not be liable for refusing services if the refusal is based on a) determination that the person is not suffering an emergency medical condition or b) determination that the facility does not have appropriate facilities or personnel.
  - » The statute provides liability immunity for personnel who provide emergency medical care, including a "rescue team."
- If a health facility does not have an emergency department, the employees must still direct and assist the person to an appropriate medical facility,
- **STANDARD OF CARE FOR REFUSAL:** Reasonable Care
- **STANDARD OF CARE FOR EMERGENCY MEDICAL CARE:** Good Faith effort.

- "Rescue team" is defined as special group of hospital employees, including doctors and surgeons, who have been trained in cardiopulmonary resuscitation and have been designated by the health facility to respond to emergency resuscitation situations.

<sup>1</sup> <http://law.onecle.com/california/health/1317.html>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>HAWAII</b></p> <p><b>HAW. REV. STAT. §663-1.6</b></p> <p><i>(see below for Good Samaritan immunity provision)</i></p>	<ul style="list-style-type: none"> <li>- Imposes an affirmative duty on any person at the scene of a crime who knows that a victim of the crime is suffering from serious physical harm to obtain or attempt to obtain aid from law enforcement or medical personnel if such person can do so without danger or peril to any person.</li> <li>- Any person who breaches this duty to assist is guilty of a petty misdemeanor.</li> <li>- Provides that a person's failure to comply with this duty to assist will not constitute grounds for the imposition of civil damages on such person.</li> <li>- <b>STANDARD OF CARE:</b> gross negligence or wanton acts or omissions or the person receives or expects to receive remuneration.</li> </ul>	<ul style="list-style-type: none"> <li>- The statute applies to the perpetrator of the crime as well as other persons at the scene of the crime. <i>State v. Cabral</i>, 810 P.2d 672, 677 (Haw. Ct. App. 1991).</li> <li>- Failure to render assistance will not be a basis for civil liability, even if such failure is itself unreasonable. <i>Moyle v. Y&amp;Y Hyup Shin Corp.</i>, 173 P.3d 535, 548 (Haw. Ct. App. 2007).</li> </ul>
<p><b>MASSACHUSETTS</b></p> <p><b>M.G.L. CH. 268 § 40</b> (Reports of crimes to law enforcement officials)<sup>2</sup></p> <p><i>(see below for Good Samaritan immunity provision)</i></p>	<ul style="list-style-type: none"> <li>- Requires a person with knowledge that another person is a victim of aggravated rape, rape, murder, manslaughter or armed robbery, if such person is at the scene of such crime, to, to the extent that such person can do so without danger or peril to himself or others, report such crime to a law enforcement official as soon as reasonably practicable.</li> </ul>	<ul style="list-style-type: none"> <li>- A violation of this statute is punishable by a fine of not less than \$500 nor more than \$2,500.</li> </ul>
<p><b>MINNESOTA</b></p> <p><b>MINN. STAT. 604A.01</b> (Good Samaritan Law)</p>	<ul style="list-style-type: none"> <li>- A person at the scene of an emergency who knows that another person is exposed or has suffered physical harm is required, to the extent such person can do so without danger or peril to self or others, give reasonable assistance to the exposed person.</li> <li>- Such person that renders emergency care, advice or assistance at the scene of an emergency or during transit to a location where medical care can be rendered is not liable for any civil damages as a result of such acts or omissions, unless the person acts in a willful and wanton or reckless manner in providing the care, advice or assistance.</li> </ul>	<ul style="list-style-type: none"> <li>- "Reasonable assistance" may include obtaining or attempting to obtain aid from law enforcement or medical personnel.</li> <li>- A violator of such statute is guilty of a petty misdemeanor.</li> <li>- The scene of an emergency includes an area outside of the confines of a hospital or an office of a person licensed to practice medicine.</li> <li>- Such protection extends to certain volunteer firefighters, police officers, ambulance attendants or first responders.</li> <li>- A motorist providing roadside assistance to a victim is immune from liability for damages resulting from subsequent negligent driving. <i>Swenson v. Waseca Mut. Ins. Co.</i> 653 N.W.2d 794 (2002).</li> </ul>
<p><b>RHODE ISLAND</b></p> <p><b>R.I. GEN. LAWS. § 11-56-1</b> (Duty to assist)<sup>3</sup></p> <p><i>(see below for Good Samaritan immunity provision)</i></p>	<ul style="list-style-type: none"> <li>- Requires any person at the scene of an emergency who knows that another person is exposed to, or has suffered, grave physical harm to give reasonable assistance to the person to the extent that he or she can do so without danger or peril to him or herself or others.</li> </ul>	<ul style="list-style-type: none"> <li>- Violators are guilty of a petty misdemeanor and are subject to imprisonment for a term not exceeding six months or a fine of not more than \$500, or both.</li> </ul>

2 <https://malegislature.gov/Laws/GeneralLaws/PartIV/Title/Chapter268/Section40>

3 <http://webserver.rilin.state.ri.us/Statutes/>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>VERMONT</b></p> <p><b>VT. STAT. ANN. TIT. 12. § 519(B)</b> Duty to Aid the Endangered Act<sup>4</sup></p>	<ul style="list-style-type: none"> <li>- Requires a non-threatened party to give “reasonable assistance” to a person who is “exposed to grave physical harm” if he knows of such grave physical harm, but the non-threatened person need not provide the reasonable assistance if such assistance would place that person in danger or interfere with “important duties owed to others,” or if assistance is already being provided by others.</li> <li>- Liability immunity granted to anyone who fulfills the statutory obligation to assist.</li> <li>- Standard of care is gross negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- Maximum fine of \$100 for failing to act.</li> <li>- Although this statute has not been rigorously tested in case law, one court found that Vermont’s Duty to Aid the Endangered Act did not impose a duty to rescue on five witnesses who observed a fight between an intoxicated father and his son, because such a situation would present “danger or peril” to the rescuer. <i>State v. Joyce</i>, 139 Vt. 638, 640-41 (1981).<sup>5</sup></li> <li>- The higher “gross negligence standard” of Good Samaritan statute imposes a more rigorous standard on the plaintiff’s showing and, although usually a factual issue, can be decided as a matter of law in order to avoid the protracted litigation against which the statute was designed to protect, the type of litigation that would defeat the purpose of the statute. <i>Hardingham v. United Counseling Svc. of Bennington Cnty., Inc.</i>, 164 Vt. 478 (1995).<sup>6</sup></li> <li>- “Gross negligence” is more than an error of judgment but rather the failure to exercise even a slight degree of care. A state trooper did not act with gross negligence in failing to arrest a crime victim’s former boyfriend when the trooper responded to a report of domestic violence, found a bruised and bleeding victim, interviewed the victim within earshot of the boyfriend, and left without arresting the former boyfriend who, the next day, beat and sexually assaulted the woman. <i>Kane v. Lamothe</i>, 182 Vt. 241 (2007).<sup>7</sup></li> </ul>
<p><b>WASHINGTON</b></p> <p><b>WA. REV. CODE § 9A-36.160</b> Duty to Summon Assistance for Crime Victim<sup>8</sup></p> <p><i>(see below for Good Samaritan immunity provision)</i></p>	<ul style="list-style-type: none"> <li>- Requires a person to summon assistance if he or she: (1) is present when a crime is committed by another person; (2) knows the crime victim suffered substantial bodily harm as a result of the crime and is in need of assistance; and (3) can reasonably summon assistance without danger to himself and without interfering with an important duty owed to a third party.</li> <li>- Person need only summon assistance if another person is not summoning or has not already summoned assistance for the crime victim.</li> </ul>	<ul style="list-style-type: none"> <li>- Failure to summon assistance in accordance with the statute is a criminal misdemeanor.</li> </ul>
<p><b>WISCONSIN</b></p> <p><b>WIS. STAT. ANN. § 940.34(2)<sup>9</sup></b></p> <p><i>(see below for Good Samaritan immunity provision)</i></p>	<ul style="list-style-type: none"> <li>- Requires a person to summon law enforcement officers or other assistance or provide assistance to a crime victim if the non-threatened person knows that a crime is being committed and that a victim is exposed to bodily harm.</li> <li>- There is no affirmative duty to act if: (1) providing assistance would put the rescuer in danger or interfere with an important duty owed to a third party; or (2) assistance is being provided or summoned by others or the crime has already been reported to a law enforcement body.</li> </ul>	<ul style="list-style-type: none"> <li>- Failure to comply with the statute is a Class C misdemeanor.</li> </ul>

4 <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=12&Chapter=023&Section=00519>

5 [http://vt.findcase.com/research/wfrmDocViewer.aspx/xq/fac.19810602\\_0016.VT.htm/qx](http://vt.findcase.com/research/wfrmDocViewer.aspx/xq/fac.19810602_0016.VT.htm/qx)

6 <http://law.justia.com/cases/vermont/ supreme-court/1995/op94-096a.html>

7 <http://info.libraries.vermont.gov/supct/current/op2006-229.txt>

8 <http://apps.leg.wa.gov/rcw/default.aspx?cite=9A.36.160>

9 <http://statutes.laws.com/wisconsin/940/940.34>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<b>OTHER JURISDICTIONS</b>		
<b>France</b>		
<b>ARTICLE 223-6 OF THE CRIMINAL CODE</b>	<ul style="list-style-type: none"> <li>- Anyone, who willfully fails to offer assistance to a person in danger which he could himself provide without risk to himself or to third parties, or by initiating rescue operations, violates the duty to assist, incurring thereby criminal liability.</li> <li>- Civil liability may also be incurred at the same time as the criminal liability (Cass. Crim., Nov 17, 1993).</li> <li>- There is no liability immunity granted to the person offering assistance.</li> <li>- There are several components to the duty to assist which have been clarified by case law: (1) a person in danger: there must be (i) a living person who faces (ii) a current and imminent danger, (iii) which is made fully aware to the person proving the assistance; (2) the voluntary failure to provide assistance: being aware of such danger, a person must voluntarily provide assistance; (3) the nature of the required assistance: there are two ways to provide assistance, (i) either by providing it itself under the condition that such assistance, does not pose any risk to himself or to third parties, (ii) and/or by initiating rescue operations. Please find below a list of case law illustrating each of the components of the duty to assist.</li> </ul>	<ul style="list-style-type: none"> <li>- Maximum fine is five years' imprisonment and €75,000 for natural persons. They also incur forfeiture of civic, civil and family rights under Article 223-16 of the Criminal Code.</li> <li>- Legal persons are also subject to the duty to assist, and their fines are listed under Articles 131-37 to 131-39 of the Criminal Code.</li> </ul>
<b>CASS. CRIM., FEB 17, 1972</b>	<ul style="list-style-type: none"> <li>- <b>FACTS:</b> The assistant and wife of the doctor, Mr. X, on duty at home received a call from a pregnant woman who had just given birth prematurely to twins in precarious housing conditions. Based on this information, the assistant invited the mother to go to the hospital, because Mr. X did not visit patients at their home anymore for child delivery. She required the mother to call an ambulance, which she did. When the mother arrived at the hospital with her twins still connected via umbilical cord, they were dead.</li> <li>- <b>HOLDING AND RATIONALE:</b> The French Supreme Court held that the assistant and the doctor both failed to offer assistance, because upon the information given by the mother, there was an imminent and real danger, and they could have offered assistance.</li> </ul>	<ul style="list-style-type: none"> <li>- The person who fails to offer assistance must be aware and have knowledge of the danger. There is a body of case law concerning the assessment made by doctors and other medical staff about the danger their patients are facing.</li> </ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
CASS. CRIM., APR 4, 2007	<ul style="list-style-type: none"> <li>- <b>FACTS:</b> Sophie Y. made three calls to the police agent Michel X. She told him that her drunk and violent husband did not want to hand her back their two children, and that she was afraid for her and the children's safety. After the two calls, the police agent refused to intervene and advised her to file a complaint the following day. During her third call, she was rudely interrupted by the police agent, who expressly refused to send help.</li> <li>- <b>HOLDING AND RATIONALE:</b> The Court of Appeal of Toulouse held that the police agent had the duty to seek as much information as possible in order to assess whether the danger was imminent and real, which he failed to do. At the same time, the Court of Appeal of Toulouse concluded that the police agent did not fail to offer assistance, which reasoning appeared illogical to the French Supreme Court, and the Court of Appeal judgment was then quashed. Given that the police agent did have to inform himself, but refused to do so, he failed to offer assistance.</li> </ul>	<ul style="list-style-type: none"> <li>- In order to assess the danger, it is expected that the person make informational enquiries, especially when this is part of a person's professional duty, as illustrated by the French Supreme Court's case dated April 4, 2007.</li> </ul>
CASS. CRIM., MAR 13, 2007	<ul style="list-style-type: none"> <li>- <b>FACTS:</b> A fishing boat with two fishermen on board, Damien Z. and Yvon Y., lurched at sea, partly because of a cargo ship, Marmara Princess, which had sailed too close in violation of the maritime code of conduct. While Yvon Y. could not extract himself from the sinking boat, Damien Z. clung onto the bow and swam for a dozen minutes before drowning. Aliman X., the captain of the cargo ship, immediately had his staff call emergency services, which were given the exact position of the fishing boat. Aliman X. ordered the launch of two buoys, but failed to provide any other assistance, such as placing his cargo leeward to the wind so as to protect the wrecked boat and Damien Z., or throwing an inflatable raft moored to the cargo, or hanging a ladder along the ship's hull.</li> <li>- <b>HOLDING AND RATIONALE:</b> The French Supreme Court held that the captain failed to offer assistance, because in addition to the call, he could have provided assistance himself without posing a risk to the cargo he commanded.</li> </ul>	<ul style="list-style-type: none"> <li>- The law does not offer an alternative to the person providing the assistance: the duty to initiate rescue operations is subsidiary to the duty to offer the assistance itself, as is illustrated by the French Supreme Court in its case dated March 13, 2007.</li> </ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
CASS. CRIM., FEB 4, 1998	<ul style="list-style-type: none"><li>- <b>FACTS:</b> One Sunday, the parents of a baby called Doctor A. about his health: the baby, aged 11 months, had a fever (40 degrees Celsius), had been taking antibiotics for a dozen days, and had previously had convulsions and some immunity problems. Doctor A. advised the parents to wait until Monday and consult with their family doctor, without himself providing any kind of assistance such as making a diagnosis, calling the hospital to get it prepared for the arrival of the baby or calling the emergency services. Doctor A. refused to visit the baby because of the heavy snowfall, and also because of another patient he had to visit. As a defence, he pointed out that his intervention would not have been efficient, since he did not have the necessary equipment, which was available only in hospitals. It is unclear whether Doctor A. told the parents to take their infant to the hospital, but they did so. The baby stayed there for three days.</li><li>- <b>HOLDING AND RATIONALE:</b> The French Supreme Court held that Doctor A. failed to offer assistance since it was a duty he had to discharge himself by offering assistance himself or by initiating rescue operations, both of which he failed to perform, while the baby was clearly in danger. His defense regarding the inefficiency of his own intervention failed. Instead, Doctor A. merely waited for the hospital to take care of the infant.</li></ul>	<ul style="list-style-type: none"><li>- The duty to assist is a duty which must be discharged by the person himself, meaning that the person shall not rely on any third person, regardless of the efficiency of his or her own assistance. This is illustrated by the French Supreme Court case dated February 4, 1998.</li></ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
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## NO AFFIRMATIVE DUTY TO ASSIST; LIABILITY PROTECTION

### U.S. State

<p><b>ALABAMA</b></p> <p><a href="#">ALA. CODE § 6-5-332</a> (2013) (Emergency and Medical Personnel Good Samaritan Immunity)<sup>10</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for certain personnel who render first aid or emergency care at the scene of an accident, casualty, or disaster.</li> <li>- Provides liability immunity to any physician who gratuitously advises medical personnel by voice, as long as the actions advised are within established medical procedures.</li> <li>- <b>STANDARD OF CARE:</b> Good Faith</li> </ul>	<ul style="list-style-type: none"> <li>- The general public is not immunized by this statute.</li> <li>- The statute only applies to “doctor of medicine or dentistry, nurse, member of any organized rescue squad, member of any police or fire department, member of any organized volunteer fire department, Alabama-licensed emergency medical technician, intern or resident practicing in an Alabama hospital with training programs approved by the American Medical Association, Alabama state trooper, medical aid functioning as a part of the military assistance to safety and traffic program, chiropractor, or public education employee....”</li> </ul>
<p><b>ALASKA</b></p> <p><a href="#">ALASKA STAT. ANN. § 09-65-090</a> (West 2013) (Good Samaritan Law)<sup>11</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity if a person rendered emergency care or emergency counseling to a person who reasonably appears to be in immediate need of emergency services in order to avoid serious harm or death.</li> <li>- Provides liability immunity for use of an automated defibrillator as long as the person was trained to use the defibrillator and called emergency personnel.</li> <li>- <b>STANDARD OF CARE:</b> gross negligence or in reckless or intentional misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- In order for the person rendering aid to obtain liability immunity, the “victim” must reasonably appear to require emergency assistance to the person rendering aid.</li> <li>- The general immunity does not apply to the following services unless the person is authorized by law to provide those services: manual defibrillator, administration of antiarrhythmic agents, intravenous therapy, intramuscular therapy, and endotracheal intubation tubes.</li> </ul>
<p><b>ARIZONA</b></p> <p><a href="#">RESTATEMENT (SECOND) OF TORTS § 323</a> (1965) (Duty to Aid Others and Services Gratuitously Rendered or Undertaken)</p>	<ul style="list-style-type: none"> <li>- If a person renders services to another, he is liable if:                             <ul style="list-style-type: none"> <li>» his failure to exercise such care increases the risk of such harm; or</li> <li>» the harm is suffered because of the other’s reliance upon the undertaking.</li> </ul> </li> <li>- <b>STANDARD OF CARE:</b> To avoid liability, a person must exercise reasonable care.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Tollenaar v. Chino Valley School Dist.</i>, 945 P.2d 1310 (Ariz. 1997): (held that Arizona follows the Restatement (Second) of Torts.)</li> </ul>
<p><b>ARKANSAS</b></p> <p><a href="#">ARK. CODE ANN. § 17-95-101</a> (West 2013) (Good Samaritan Law – Medical and Nonmedical Personnel)<sup>12</sup></p>	<ul style="list-style-type: none"> <li>- Separate sections of the statute for medical and non-medical personnel.</li> <li>- The medical personnel section provides liability immunity if medical personnel acted in good faith and lent emergency care/assistance without compensation at the scene of the emergency or accident.</li> <li>- Non-medical personnel are afforded liability immunity if:                             <ul style="list-style-type: none"> <li>» the person believes the life, health and safety of the injured person under imminent threat of danger would be aided by reasonable emergency procedures;</li> <li>» the person provides emergency assistance that is reasonably calculated to remove or lessen the immediate threat; and</li> <li>» the person acted as a reasonable and prudent person would under the circumstances.</li> </ul> </li> <li>- <b>STANDARD OF CARE:</b> The person must act as a reasonable and prudent person would have acted under the circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>- The statute also immunizes physicians and surgeons who render voluntary emergency medical assistance to participants in school athletic events.</li> <li>- <b>STANDARD OF CARE:</b> Physician’s actions must not rise to level of gross negligence.</li> </ul>

10 [http://www.heartsafeam.com/files/Alabama\\_Good\\_Samaritan\\_Act.pdf](http://www.heartsafeam.com/files/Alabama_Good_Samaritan_Act.pdf)

11 [http://www.heartsafeam.com/files/Alaska\\_Good\\_Samaritan\\_Law.pdf](http://www.heartsafeam.com/files/Alaska_Good_Samaritan_Law.pdf)

12 [http://www.heartsafeam.com/files/Arkansas\\_Good\\_Samaritan\\_Law.pdf](http://www.heartsafeam.com/files/Arkansas_Good_Samaritan_Law.pdf)

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>CALIFORNIA</b></p> <p><b>CAL. HEALTH &amp; SAFETY CODE § 1799.102</b> (West 2013) (Good Samaritan Immunity)<sup>13</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for anyone who, in good faith and without compensation, aids in medical or nonmedical care at the scene of an accident.</li> <li>- <b>STANDARD OF CARE:</b> The general public must not act with gross negligence or willful or wanton misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- Specifically does not provide liability immunity in hospitals and other places where medical care is offered.</li> </ul>
<p><b>COLORADO</b></p> <p><b>COLO. REV. STAT. ANN. § 13-21-108</b> (West 2013) (Persons Rendering Emergency Assistance Exempt from Civil Liability)<sup>14</sup></p>	<ul style="list-style-type: none"> <li>- Statute provides liability immunity if a person renders emergency care/assistance in good faith at the emergency or accident scene, as long as the person does not have a duty to aid the injured victim (e.g., a doctor is not shielded from liability for treating her own patient at the scene of an accident).</li> <li>- <b>STANDARD OF CARE:</b> The person rendering aid must not be grossly negligent or engage in willful and wanton conduct.</li> </ul>	<ul style="list-style-type: none"> <li>- The statutory immunity extends to hospitals and other health care institutions.</li> <li>- Provides liability immunity for volunteer members of rescue teams, even if the organization running the rescue unit may still recover costs.</li> <li>- Provides liability immunity for volunteer members of ski patrol, even if the ski patrol member may be compensated in other ways such as free skiing.</li> </ul>
<p><b>CONNECTICUT</b></p> <p><b>CONN. GEN. STAT. ANN. § 52-557B</b> (West 2013) (Good Samaritan Law)<sup>15</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for any medical personnel who voluntarily and gratuitously renders emergency medical care. The emergency medical care may not be rendered in the ordinary course of employment or practice.</li> <li>- <b>STANDARD OF CARE:</b> The person rendering aid must not be grossly negligent or engage in willful and wanton conduct.</li> </ul>	<ul style="list-style-type: none"> <li>- There is no liability immunity for non-medical personnel.</li> <li>- Medical personnel include: doctors, surgeons, nurses, medical technicians, and persons trained in cardiopulmonary resuscitation.</li> </ul>
<p><b>DISTRICT OF COLUMBIA</b></p> <p><b>D.C. CODE ANN. § 7-401</b> General Immunity; Immunity for emergency health technicians<sup>16</sup></p> <p><b>D.C. CODE ANN. § 7-2361.10</b> Immunity for volunteer health practitioners<sup>17</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes govern general immunity and immunity for volunteer health practitioners.</li> <li>- Immunity granted to any person who renders emergency medical care or assistance to an injured person at the scene of an accident or other emergency outside of a hospital. Statute applies to persons who are not licensed or certified to provide medical care or assistance provided that the person will relinquish direction of the emergency care when a person licensed to provide such care assumes responsibility for the care of the injured person. Under this provision, the emergency care must be rendered without the expectation or intending to seek compensation.</li> <li>- Immunity is also specifically granted to an emergency medical technician or paramedic who, pursuant to instructions from a licensed physician, renders advanced emergency medical care or assistance to an injured person at the scene of an accident or other emergency or in transit from the scene of the accident to a hospital. Immunity is also granted to the licensed physician providing the instruction. Under this provision, the element of receipt of compensation by the emergency technician is absent from precluding Good Samaritan immunity.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- A voluntary health practitioner can receive immunity so long as such person does not commit an intentional tort, breach of contract, willful misconduct, or wanton, grossly negligent, reckless or criminal conduct.</li> <li>- A voluntary health practitioner does not receive immunity relating to the operation of a motor vehicle or any other mode of transportation.</li> <li>- If a voluntary health practitioner is not liable for damages resulting from an act or omission, no other person shall be vicariously liable for such act or omission.</li> </ul>

13 <http://law.onecle.com/california/health/1799.102.html>

14 [http://www.heartsafeam.com/files/Colorado\\_Good\\_Samaritan\\_Act.pdf](http://www.heartsafeam.com/files/Colorado_Good_Samaritan_Act.pdf)

15 [http://www.heartsafeam.com/files/Connecticut\\_Good\\_Samaritan\\_Act.pdf](http://www.heartsafeam.com/files/Connecticut_Good_Samaritan_Act.pdf)

16 <http://dcode.org/simple/sections/7-401.html>

17 <http://dcode.org/simple/sections/7-2361.10.html>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>DELAWARE</b></p> <p><b>DEL. CODE ANN. TIT. 16, §6801</b> (West 2013) (Persons Rendering Emergency Care Exempt from Liability)<sup>18</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for any person who voluntarily, without expectation of compensation, renders first aid, emergency care or rescue assistance. Aid must be rendered to a person who is unconscious, ill, injured, or in need of assistance.</li> <li>- <b>STANDARD OF CARE:</b> The person rendering aid must not be grossly negligent or engage in reckless, willful or wanton conduct.</li> </ul>	<ul style="list-style-type: none"> <li>- Does not provide liability immunity for care provided at a hospital or clinic.</li> <li>- Provides liability immunity for volunteer members of rescue teams, even if the organization running the rescue unit may still recover costs.</li> </ul>
<p><b>FLORIDA</b></p> <p><b>FLA. STAT. ANN. § 768.13</b> (West 2013) (Good Samaritan Act)<sup>19</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for any person who gratuitously and in good faith renders first aid, emergency care.                             <ul style="list-style-type: none"> <li>» Emergency care must be provided in response to a state of emergency, or at the scene of emergency where there is no proper medical equipment.</li> <li>» Person must act “without objection” from injured party.</li> </ul> </li> <li>- <b>STANDARD OF CARE:</b> Person must act as an ordinary reasonably prudent person would have acted under similar circumstances.</li> <li>- Also provides liability immunity for hospital employees who, in good faith, render emergency care for a sudden, unexpected medical emergency where the patient enters the hospital through the emergency room or trauma center.                             <ul style="list-style-type: none"> <li>» Emergency care must be provided within the clinical area of the hospital.</li> <li>» Immunity does not apply to any injuries sustained after the emergency condition has been treated (i.e., follow-up care).</li> </ul> </li> <li>- <b>STANDARD OF CARE:</b> Person must not act with reckless disregard for the life or health of the patient.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Knox v. Adventist Health System/Sunbelt, Inc.</i>, 817 So.2d 961 (Fla. 2002): Court held that paramedics are not protected by the general liability section of the Good Samaritan statute, because they are paid for their work, and therefore do not provide gratuitous care. Also, because paramedics do not work within a clinical area of a hospital, they do not fall within the hospital liability section of the Good Samaritan statute.</li> <li>- <i>Botte v. Pomeroy</i>, 438 So.2d 544 (Fla. 1983): The plain language of the statute requires the Good Samaritan to act “without objection.” The defendant was attempting to assist the plaintiff, an inebriated man who had passed out. The plaintiff asked the defendant to simply call the police – the defendant chose to move the plaintiff and then call the police. The plaintiff subsequently became quadriplegic. The defendant had not acted “without objection,” and was therefore not shielded from liability by the Good Samaritan statute.</li> </ul>
<p><b>GEORGIA</b></p> <p><b>GA. CODE ANN. § 51-1-29</b> (West 2013) (Liability of Persons Rendering Emergency Care)<sup>20</sup></p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for any person who renders emergency care at the scene of an accident or emergency.</li> <li>- <b>STANDARD OF CARE:</b> Good Faith</li> </ul>	<ul style="list-style-type: none"> <li>- Also provides liability immunity for any damages as a result of providing or failing to provide further medical treatment or care.</li> </ul>

18 [http://www.heartsafeam.com/files/Delaware\\_Good\\_Samaritan\\_Act.pdf](http://www.heartsafeam.com/files/Delaware_Good_Samaritan_Act.pdf)

19 [http://www.heartsafeam.com/files/Florida\\_Good\\_Samaritan\\_Law.pdf](http://www.heartsafeam.com/files/Florida_Good_Samaritan_Law.pdf)

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<p><b>HAWAII</b></p> <p><b>HAW. REV. STAT. §663-1.5</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to:               <ul style="list-style-type: none"> <li>» Any person who in good faith, without pay or the expectation of pay, renders emergency care at the scene of an accident or emergency to a victim of the accident or emergency, except for damages resulting from his or her gross negligence or wanton acts or omissions.</li> <li>» Rescue teams (including physicians working in direct communication with a rescue team) operating in connection with a hospital or an authorized emergency vehicle of a hospital or the State or county who, in good faith, attempt to resuscitate any person who is in immediate danger of loss of life, except for damages resulting from gross negligence or wanton acts or omissions or breach of any duty for designating or training rescue team members or maintaining equipment.</li> <li>» Licensed physicians or physician assistants who in good faith and without pay or expectation of pay render emergency medical care in a hospital to a person who is in immediate danger or loss of life, provided that they exercise the standard of care expected of similar physicians or physician assistants in similar circumstances.</li> <li>» People who publish general first aid information under specified circumstances.</li> <li>» People who use, provide instruction in, or make available automatic external defibrillators under specified circumstances.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- The statute provides that “GOOD FAITH” includes, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed.</li> <li>- In <i>Winfrey v. GGP ALA Moana LLC</i> 2013 WL 3776190, (Haw. 2013) the Supreme Court of Hawaii held that the statute did not apply in a situation in which a mall owner had an affirmative duty to act after a patron become stuck in an exhaust hood above the mall’s food court.</li> </ul>
<p><b>IDAHO</b></p> <p><b>IDAHO CODE ANN. §5-330</b> (Immunity of persons giving first aid from damage claim)</p> <p><b>IDAHO CODE ANN. §5-331</b> (Immunity of volunteer ambulance attendant)</p> <p><b>IDAHO CODE ANN. §5-342</b> (Immunity for search and rescue operations)</p>	<ul style="list-style-type: none"> <li>- Sec. 5-330 provides immunity from civil damages to any person who, in good faith, at the scene of an accident, offers and administers first aid or medical attention to any person injured in such accident, except damages arising from such person’s gross negligence. Immunity ends upon delivery of the injured person to a hospital or the office of anyone assuming the treatment of the injured person, or into the custody of an ambulance.</li> <li>- Sec. 5-331 provides immunity from civil damages for any person who offers and administers first aid or emergency medical attention as part of a volunteer service as an ambulance attendant to any person or persons utilizing the services, unless the volunteer is guilty of gross negligence. Immunity ends upon delivery of the injured person to a hospital or the office of anyone assuming the treatment of the injured person.</li> <li>- Sec. 5-342 provides immunity from civil damages to volunteer members of an authorized search and rescue operation, except for damages resulting from acts or omissions that are not done in good faith or are grossly negligent. This immunity applies even if an organization is permitted to recover related costs.</li> </ul>	

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<p>ILLINOIS</p> <p>745 ILL. COMP. STAT. 49/1 ET SEQ.</p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages for acts or omissions (other than those constituting willful or wanton misconduct) performed by members of the following classes of persons in the following circumstances (among others):               <ul style="list-style-type: none"> <li>» Licensed dentists, optometrists, podiatrists, and veterinarians who in good faith provide emergency care without fee to a victim of an accident at the scene of an accident.</li> <li>» Licensed physicians, advanced practice nurses, professional nurses, physical therapists, law enforcement officers, firefighters, EMTs, first responders and certified first aid providers who in good faith provide emergency care without a fee to any person.</li> <li>» Any person who in good faith provides emergency care, without fee or compensation, to any person at the scene of an emergency that necessitates the evacuation of a building.</li> <li>» Any person who in good faith removes or attempts to remove food from a choking victim in an emergency occurring at a food-service establishment.</li> <li>» Employers and employees (other than licensed health services personnel) who in good faith provide emergency medical or first aid care to any employee or other person employed on the same project (although the statute does not preempt an employer's liability under the Worker's Compensation Act or the Worker's Occupational Diseases Act).</li> <li>» Any person who gives emergency instructions through a system established under the Emergency Telephone System Act and persons who rely on such instructions.</li> <li>» Any person trained in cardiopulmonary resuscitation (CPR) who in good faith, without compensation, provides emergency CPR in accordance with their training to a person who is an apparent victim of acute cardiopulmonary insufficiency.</li> <li>» Any person who in good faith and without fee or compensation rendering emergency care in accordance with their training through use of an automated external defibrillator.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- "Good faith" as used in the statute, means "honest, lawful intent," or "is the opposite of fraud and bad faith." <i>Hernandez v. Alexian Brothers Health System</i>, 893N.E.2d 934, 941 (Ill. App. Ct. 2008).</li> <li>- Whether an emergency situation exists for purposes of the statute is to be resolved based on the unforeseen, unexpected combination of circumstances presented which require the need for immediate action, assistance or relief, and not on the basis of any bright line rule <i>Rivera v. Arana</i>, 749 N.E.2d 434, 442 (Ill. App. Ct. 2001) (holding that an emergency existed when a physician examined a patient's infected foot). In determining whether a patient's condition constitutes an emergency, the trier of fact must consider the gravity, the certainty, and the immediacy of the consequences to be expected if no action is taken. <i>Blanchard v. Murray</i>, 771 NE 2d 1122, 1132 (Ill. App. Ct. 2002).</li> <li>- The statute does not require that an emergency occur outside of a hospital for immunity to apply. <i>Johnson v. Matviuw</i>, 176 Ill. App.3d 907, 918 (Ill. App. Ct. 1989).</li> <li>- The statute does not require a physician to prove the absence of a preexisting duty to act. The existence of a preexisting duty is only relevant to whether the physician satisfies the "no notice" requirement of the statute. <i>Neal v. Yang</i>, 816 NE.2d 853, 861 (Ill. App. Ct. 2004).</li> <li>- The Illinois Appellate Court ruled in <i>Estate of Heanue v. Edgecomb</i>, 823 N.E.2d 1123, 1128-1129 (Ill. App. Ct. 2005) that the fact that some economic benefit flowed to the doctor through his affiliation with the surgical center that charged plaintiff for other services provided to the plaintiff (but not the disputed services) is not dispositive as to whether the doctor charge the plaintiff a "fee" within the meaning of the statute. It further noted, however, refraining from charging a fee simply to invoke the protection of the statute would seem to violate the requirement that a doctor's actions be taken in good faith (<i>Heanue</i> at 1129). The same court in <i>Blanchard</i> (at 1132) observed that there is no requirement that the intent behind not charging a fee for medical services must be solely to benefit the person receiving those services. The U.S. District Court for the Northern District of Illinois in <i>Rodas v. SwedishAmerican Health Sys Corp.</i>, 594 F. Supp. 2d 1033, 1041 (N.D. Ill. 2009) observed that the good faith requirement was satisfied where a patient was not billed but the doctors received their full salary and compensation for the date of treatment.</li> </ul>

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<p><b>INDIANA</b></p> <p><b>IND. CODE §34-30-12-1</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to any person who, in good faith, gratuitously renders emergency care at the scene of an emergency or accident and causes physical injury resulting from any act or omission in rendering such emergency care or from any act or omission to provide or arrange for further medical treatment or care, except for acts or omissions amounting to gross negligence or wanton misconduct.</li> <li>- Does not apply to services rendered by a health care provider to a patient in a health care facility.</li> <li>- Provides immunity from civil damages for the use, instruction in, or provision of an automatic defibrillator under specified circumstances.</li> <li>- Provides immunity for individuals who have successfully completed a specified course of training in CPR for any act or omission while attempting to administer CPR, without pecuniary charge, to any person who is an apparent victim of acute cardiopulmonary insufficiency, except for such acts or omissions that amount to gross negligence or wanton misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- The statute does not protect a driver who negligently parked his truck in the driving lane of an interstate highway to assist a driver with a flat tire. <i>Mckinney v. Public Service Co.</i>, 597 NE 2d 1001, 1011 (Ind. App. Ct. 1992).</li> </ul>
<p><b>IOWA</b></p> <p><b>IOWA CODE ANN. §613.17</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to any person who in good faith renders emergency care or assistance without compensation for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct.</li> <li>- Provides immunity from civil damages to volunteer fire fighters, volunteer rescue squad members, volunteer paramedics, volunteer emergency medical technicians, and national ski patrol members who receive nominal compensation not based on the value of the services rendered. For purposes of the statute, responding to an emergency call will be considered rendering emergency care or assistance for volunteer fire fighters, volunteer rescue squad members, volunteer paramedics, and volunteer emergency medical technicians.</li> <li>- Provides immunity from civil damages for the use, instruction in, or provision of an automatic defibrillator under specified circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>- A person who undertakes to be a Good Samaritan is bound by the same rules of the road as others who use the highway. His good intentions do not relieve him of the obligation to use due care. <i>Manley v. Janssen</i>, 213 N.W.2d 693, 696 (Iowa 1973).</li> </ul>

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<p><b>KANSAS</b></p> <p><b>KAN. STAT. ANN. §65-2891</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to any “health care provider” who in good faith renders emergency care or assistance at the scene of an emergency or accident, including the treatment of a minor without first obtaining the consent of a parent or guardian, except for civil damages resulting from gross negligence or willful or wanton acts or omissions.</li> <li>- Also covers health care providers who render emergency care or assistance in an emergency that occurs in a hospital or elsewhere, with or without compensation, until such time as the victim’s physician assumes responsibility for such care. Notwithstanding the foregoing, the ordinary standard of care and rules of negligence shall apply in those cases in which emergency care is rendered in any physician’s or dentist’s office, clinic, emergency room or hospital with or without compensation.</li> </ul>	<ul style="list-style-type: none"> <li>- “Health care providers” include any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, any physician assistant who has successfully completed an approved training program and the national board examination, licensed athletic trainer, licensed occupational therapist, licensed respiratory therapist, any person who holds a valid certificate for the successful completion of specified courses in first aid, and any person engaged in a postgraduate training program approved by the state.</li> <li>- Does not exempt operators of ambulance services from liability for ordinary negligence in all emergency situations; rather, the intent of the law was to exempt only those medically trained personnel who happen across an emergency outside the normal course of work and who otherwise have no duty to assist. <i>James v. Rowe</i>, 674 F.Supp. 332, 333-334 (D. Kan., 1987).</li> </ul>
<p><b>KENTUCKY</b></p> <p><b>KY. REV. STAT. ANN. §411.148</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to members of the classes of persons set forth below in connection with emergency care or treatment provided at the scene of an accident outside of a hospital, doctor’s office, or other place having proper medical equipment, excluding house calls for acts performed at the scene of such emergency without remuneration or the expectation of remuneration, unless such acts constitute willful or wanton misconduct, and only if such treatment is provided without remuneration or the expectation thereof: <ul style="list-style-type: none"> <li>» Licensed physicians and nurses.</li> <li>» Certified emergency medical technicians.</li> <li>» Persons certified to perform CPR by the American Heart Association or the American Red Cross.</li> <li>» Any employee of a board of education who has completed a course in first aid and who maintains current certification therein in accordance with the standards of the American Red Cross.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- The statute does not apply to emergency care or treatment given by a certified EMT or paramedic while on duty in the course and scope of their employment. Emergency care or treatment rendered as part of one’s job duties is treatment rendered for remuneration and is not covered by the statute. <i>Phillips v. Lexington-Fayette Urban County Government</i>, 331 S.W.3d 629, 633 (Ky.App. 2010). See also <i>Cook v. Taylor</i>, No. 2007-CA-000122-MR (Ky. Ct. App., 2008) (holding that the statute does not apply where the care provided is based on a pre-existing duty, including the duty to assist of an emergency medical technician and a paramedic who are called to the scene of an emergency while on duty).</li> </ul>

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<p><b>LOUISIANA</b></p> <p><b>LA. REV. STAT. ANN. §2793</b> (General statute)</p> <p><b>LA. REV. STAT. ANN. §1731</b> (Physicians, surgeons, physician assistants, nurses, dentists and emergency medical technicians)</p> <p><b>LA. REV. STAT. ANN. §1732</b> (Firefighters, police officers and ambulance or rescue squad members)</p> <p><b>LA. REV. STAT. ANN. §1735</b> (Volunteer firefighters)</p>	<ul style="list-style-type: none"> <li>- Sec. 2793 provides immunity from civil damages to any person who in good faith gratuitously provides emergency care, first aid or rescue at the scene of an emergency, or moves a person receiving such care to a hospital or other place of medical care, unless such person intentionally or through grossly negligent acts or omissions causes such damage.               <ul style="list-style-type: none"> <li>» Does not cover such care rendered incidental to a business relationship, such as an employer-employee relationship.</li> <li>» Does not inure to the benefit of any employer or other person legally responsible for the acts or omissions of the person providing such aid or to the benefit of any insurer.</li> <li>» Emergency care, first aid and rescue are defined to include the use of an automated external defibrillator.</li> </ul> </li> <li>- Sec. 1731 provides immunity from civil damages to physicians (and the physician's professional medical corporation or limited liability company), surgeons, licensed physician assistants, licensed nurses, dentists and certified medical technicians who in good faith gratuitously render emergency care or services at the scene of an emergency to a person in need of such services, except civil damages related to damage or injury caused by willful or wanton misconduct or gross negligence.               <ul style="list-style-type: none"> <li>» Covers physicians, surgeons and licensed nurses and physician assistants who respond in good faith to an imminent life-threatening situation or emergency within a hospital or medical health care facility if such response was not required by the individual's actual duties (and the individual was not previously attending or consulting on the patient).</li> <li>» Covers emergency room physicians who provide appropriate standard of care treatment to walk-in patients with whom the physician has no prior physician-patient relationship.</li> <li>» Does not cover dentists if such emergency care is rendered in a dentist's office or hospital.</li> </ul> </li> <li>- Sec. 1732 provides immunity from civil damages to firefighters, police officers and ambulance or rescue squad members who are trained in first aid and who render emergency care, first aid or rescue while in the performance of their duties at the scene of an emergency or move a person requiring such aid to a hospital or other medical facility, except for damages resulting from acts or omissions intentionally designed to harm or grossly negligent acts or omissions that result in harm to such person and except for damages resulting from the operation or use of an ambulance or other emergency or rescue vehicle. Such immunity does not inure to the benefit of any employer or other person legally responsible for the acts or omissions of such parties or to the benefit of any insurer, except that no parish governing authority or its insurer shall be vicariously liable for acts or omissions of a party who would not be personally liable for such acts or omissions as a result of Section 1732.</li> <li>- Sec. 1735 provides immunity from individual liability for civil damages to any volunteer firefighter who renders emergency or rescue services while in the performance of his duties at the scene of an emergency, except for damages resulting from acts or omissions intentionally designed to harm or grossly negligent acts or omissions that result in harm to person or property.</li> </ul>	<ul style="list-style-type: none"> <li>- The rendering of emergency aid cannot form the basis of a contributory negligence claim against a Good Samaritan injured by a third party while in the process of rendering such aid unless the Good Samaritan was unreasonable in rendering such aid. <i>Day v. Coca-Cola Bottling Co., Inc.</i>, App. 2 Cir.1982, 420 So.2d 518, 520-521 (La.App. 2 Cir. 9/20/82) (observing that the legislature, by enacting Sec. 2793, has encouraged the state's citizens to render emergency aid).</li> <li>- Sec. 1735 does not provide immunity from vicarious liability for the negligence of volunteer firefighters to volunteer fire departments. <i>Matlock v. Hankel</i>, 707 So.2d 1016, 1020 (La. Ct. App. 1998).</li> </ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>MAINE</b></p> <p><b>ME. REV. STAT. ANN. TIT. 14, §164</b> (General statute)</p> <p><b>ME. REV. STAT. ANN. TIT. 32, §2594</b> (Osteopathic physicians)</p>	<ul style="list-style-type: none"> <li>- Sec. 164 provides immunity from civil damages to any person who voluntarily, without the expectation of compensation from the victim, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, except for damages resulting from injuries or death caused willfully, wantonly or recklessly or by the gross negligence of the person rendering such aid.                             <ul style="list-style-type: none"> <li>» Applies to nonprofit volunteer or governmental ambulance, rescue or emergency units, whether or not a service fee is charged by the nonprofit or governmental entity and whether or not the members receive salaries or other compensation from the nonprofit or governmental entity.</li> <li>» Does not apply to emergency treatment or assistance rendered on the premises of a hospital or clinic.</li> </ul> </li> <li>- Sec 2594 provides immunity from civil damages to State-licensed osteopathic physicians who, in the exercise of due care, render emergency care at the scene of an accident.</li> </ul>	<ul style="list-style-type: none"> <li>- Sec. 164 does not apply to rescue efforts by government entities (including Maine Department of Inland Fisheries and Wildlife, Maine Warden Service, Maine Army National Guard, and Maine Army National Guard's 112th Medical/ Medivac Company) that are not named in the statute, which covers "governmental ambulance, rescue or emergency units." <i>Thompson v. State</i>, 2001 WL 1807312 (Me., 2001)</li> </ul>
<p><b>MARYLAND</b></p> <p><b>MD. CODE ANN., CTS. &amp; JUD. PROC. §5-603</b></p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages for acts or omissions (other than acts or omissions constituting gross negligence) in giving assistance or medical care without fee or other compensation at the scene of an accident, in transit to a medical facility or through communications with personnel providing emergency assistance to the members of the following classes of persons/entities:                             <ul style="list-style-type: none"> <li>» Individuals licensed by the state to provide medical care.</li> <li>» Members of any State, county, municipal or volunteer fire department, ambulance and rescue squad, or law enforcement agency, the National Ski Patrol System, or a corporate fire department responding to a call outside of its corporate premises if such member: (a) has completed an American Red Cross course in advance first aid and has a current card showing that status; (b) has completed an equivalent approved course in advanced first aid; or (c) is certified by the State as an emergency medical services provider.</li> <li>» A volunteer fire department or ambulance or rescue squad whose members have immunity.</li> <li>» A corporation when its fire department personnel are immune.</li> </ul> </li> <li>- Also provides immunity from civil damages to persons who are not listed above if such person provides assistance or medical care at the scene of an emergency in a reasonably prudent manner, without compensation, and such person relinquishes care of the victim when someone who is licensed or certified by the State to provide medical care or services becomes available to take responsibility.</li> </ul>	<ul style="list-style-type: none"> <li>- The statute does not provide immunity from vicarious liability to a for-profit ambulance company. <i>TransCare Maryland, Inc. v. Murray</i>, 431 Md. 225, 242, 64 A.3d 887, 897 (2013).</li> <li>- Receiving a salary does not constitute a "fee or compensation" for purposes of the statute. See <i>Muthukumarana v. Montgomery County</i>, 805 A.2d 372, 394 (Md. 2002) (holding that the statute applies to actions of 911 operators and dispatchers taken in the course of performing their duties, on the grounds that a 911 operator or dispatcher generally receives a salary from his or her employer, not from the person in need of assistance) and <i>Tatum v. Gigliotti</i>, 321 Md. 623, 629, 583 A.2d 1062, 1065 (1991) (holding that a predecessor statute applies to a salaried emergency medical technician operating with the scope of his duties). The "fee" provision of the statute is not to be assessed from the standpoint of the provider, but that of the victim. The question is not whether the fee was received by the provider of services, but whether the fee was charged to the recipient of such services. <i>Chase v. Mayor and City Council of Baltimore</i>, 730 A.2d 239, 246-247 (Md. 1999).</li> <li>- The protection of the statute is unavailable even if a fee is charged by the employer of the individual seeking coverage rather than the individual himself or herself. <i>Chase v. Mayor and City Council of Baltimore</i>, 730 A.2d 239, 245 (Md. 1999) (holding that the statute did not protect a city fire department paramedic whose department charged plaintiff a \$100 fee to cover ambulance transportation costs).</li> <li>- The court in <i>Tatum v Gigliotti</i>, 80 Md. App. 559, 568, 565 A.2d 354, 358 (1989), observed that gross negligence is equated with "willful and wanton misconduct," a "wanton or reckless disregard for human life or the rights of others." Someone "is guilty of gross negligence or acts wantonly and willfully only when he inflicts injury intentionally or is so utterly indifferent to the rights of others that he acts as if such rights did not exist."</li> </ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>MASSACHUSETTS</b></p> <p><b>M.G.L. CH. 111C § 20</b> (Remote communication; advice, consultation or orders; limitation on liability of physicians, nurses, hospitals and EMS personnel)<sup>21</sup></p> <p><b>M.G. L. CH. 111C § 21</b> (EMS personnel; good faith performance of duties; limitation on personal liability)<sup>22</sup></p> <p><b>M.G.L. CH. 112 § 12B</b> (Emergency care of injured persons; exemption from civil liability)<sup>23</sup></p> <p><b>M.G.L. CH. 112 § 12V</b> (Emergency care of injured persons; exemption from civil liability)<sup>24</sup></p> <p><b>M.G.L. CH. 258C § 13</b> ("Good Samaritans"; liability)<sup>25</sup></p>	<ul style="list-style-type: none"> <li>- Liability immunity for a duly registered physician, nurse and hospital acting on advice, consolation or orders given in good faith by emergency medical services personnel by radio, telephone or other remote means of communication prior to arrival of the patient at the hospital or other health care facility.</li> <li>- Liability immunity for emergency medical services personnel for, in the performance of their duties and in good faith, rendering emergency first aid or transportation to an injured person or person incapacitated by illness.</li> <li>- Liability immunity for any duly registered physician or nurse who, in good faith, as a volunteer and without fee, renders emergency care or treatment other than in the ordinary course of his practice.</li> <li>- Liability immunity for any person, whose usual and regular duties do not include the provision of emergency medical care, and who in good faith, attempt to render emergency care including cardiopulmonary resuscitation or defibrillation (if they do so without compensation), other than for gross negligence or willful or wanton misconduct.</li> <li>- Liability immunity for any person, who in good faith provides or obtains, or attempts to provide or obtain, assistance for a victim of a crime, other than for gross negligence or willful or wanton misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- The standard set by statute in order to establish liability is that of gross negligence or willful, wanton misconduct. There is no duty imposed upon non-emergency medical care third-party interveners to utilize a defibrillator. <i>Anne K. Strong, Temporary Executrix of the Estate of Donald F. Strong v. Noel Management Corporation dba The Willows Racket &amp; Fitness Center</i>, 29 Mass. L. Rep. 106; 2011 Mass. Super. LEXIS 241 (2011).</li> </ul>
<p><b>MICHIGAN</b></p> <p><b>M.C.L. 333.20965</b> (Liability for acts or omissions)</p> <p><b>M.C.L. 691.1501</b> (Physicians, physician's assistant, or nurses rendering emergency care)</p> <p><b>M.C.L. 691.1502</b> (Emergency care; exemption of certain persons from civil liability)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (unless such act or omission is the result of gross negligence or willful misconduct) for the acts or omissions of certain emergency medical first responders in rendering emergency care.</li> <li>- A physician, physician's assistant, registered profession nurse or licenses practically nurse that renders emergency care without compensation at the scene of an emergency, if a physician-patient relationship did not exist before such emergency, is not liable for civil damages as a result of its acts or omissions (except for acts or omissions amounting to gross negligence or willful and wanton misconduct or which are outside of the scope of the license held by the physician or physician's assistant).</li> <li>- If an individual's actual duties at a hospital does not require a response to an emergency situation, a physician, physician's assistant, dentist, intern, resident and certain other care providers, who in good faith respond to a life threatening emergency within a hospital or other licenses medical facility, is not liable for civil damages as a result of an act or omission in rendering such emergency (except for an act or omission amounting to gross negligence or willful and wanton misconduct).</li> </ul>	<ul style="list-style-type: none"> <li>- The exemption under M.C.L.A. 691.1502 does not apply to a physician if a physician-patient relationship existed before the emergency. In addition, such statute does not diminish a hospital's responsibility to adequately staff hospital emergency facilities.</li> </ul>

21 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111c/Section20>

22 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111c/Section21>

23 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section12b>

24 <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section12v>

25 <https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleIV/Chapter258c/Section13>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>MISSISSIPPI</b></p> <p><b>MISS. CODE ANN. 73-25-37</b> (Liability for rendering emergency care)</p>	<ul style="list-style-type: none"> <li>- No licenses, practicing physician, dentist, registered nurse, medical technician or any other person that, in good faith and in the exercise of reasonable care, renders emergency care to any injured person at the scene of an emergency, or in transporting the injured person to a medical assistance facility, is liable for any civil damages to the injured person as a result of such acts or omissions committed in good faith and in the exercise of reasonable care.</li> </ul>	<ul style="list-style-type: none"> <li>- Statute provides immunity to anyone who renders care in an emergency situation, not just licenses medical experts. <i>Willard v. Mayor and Aldermen of City of Vicksburg</i>, 571 So.2d 972 (1990)</li> <li>- Since standard of care is that of reasonableness, any negligence acts of omissions would result in liability to the individual providing such emergency assistance. <i>Ladner v. Holleman</i> 90 So.3d 655 (2012)</li> </ul>
<p><b>MISSOURI</b></p> <p><b>MO. REV. STAT. §537.037</b> (Emergency care, no civil liability, exceptions)</p> <p><b>MO. REV. STAT. §44.023</b> (Disaster volunteer program established, agency's duties; expenses; immunity from liability, exception)</p> <p><b>MO. REV. STAT. §190.092</b> (Defibrillators, use authorized when, conditions, notice; good faith immunity from civil liability, when)</p>	<ul style="list-style-type: none"> <li>- Sec. 537.037 provides immunity from civil damages to the following persons under the noted circumstances: <ul style="list-style-type: none"> <li>» Physicians, surgeons, registered professional nurses, licensed practical nurses, and any persons licensed as a mobile emergency medical technicians <ul style="list-style-type: none"> <li>· For good faith rendering of emergency care or assistance, without compensation, at the scene of an emergency or accident</li> <li>· For good faith rendering of emergency care or assistance, without compensation, to any minor involved in an accident, or in competitive sports, or other emergency at the scene of an accident, without first obtaining the consent of the parent or guardian of the minor</li> <li>· Standard of care is gross negligence or willful or wanton acts or omissions.</li> </ul> </li> <li>» Other persons who have been trained to provide first aid in a standard recognized training program <ul style="list-style-type: none"> <li>· Without compensation, for rendering emergency care or assistance to the level for which he or she has been trained, at the scene of an emergency or accident</li> <li>· Standard of care is gross negligence or willful or wanton acts or omissions.</li> </ul> </li> <li>» Mental health professionals, qualified counselors, practicing medical, osteopathic, or chiropractic physicians, certified nurse practitioners, or physicians' assistants <ul style="list-style-type: none"> <li>· For good faith rendering of suicide prevention interventions at the scene of a threatened suicide</li> <li>· Standard of care is gross negligence or willful or wanton acts or omissions.</li> </ul> </li> </ul> </li> <li>- Sec. 44.023 provides immunity from civil damages to the following persons under the noted circumstances: <ul style="list-style-type: none"> <li>» Architects and professional engineers, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program</li> <li>» Any other individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services</li> <li>» Standard of care is willful misconduct or gross negligence.</li> </ul> </li> <li>- Sec. 190.092 provides immunity from civil damages to the following persons under the noted circumstances: <ul style="list-style-type: none"> <li>» Persons who gratuitously and in good faith render emergency care by use of or provision of an automated external defibrillator</li> </ul> </li> </ul>	

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
	<ul style="list-style-type: none"> <li>» Persons who provide appropriate training to the person using an automated external defibrillator</li> <li>» Person or entity responsible for the site where the automated external defibrillator is located</li> <li>» Person or entity that owns the automated external defibrillator</li> <li>» Person or entity that provided clinical protocol for automated external defibrillator sites or programs</li> <li>» Licensed physician who reviews and approves the clinical protocol</li> <li>» <b>STANDARD OF CARE</b> is willful and wanton or reckless manner in providing the care, advice, or assistance.</li> </ul>	
<p><b>MONTANA</b></p> <p><b>MONT. CODE ANN. §27-1-714</b> (Limits on liability for emergency care rendered at scene of accident or emergency)</p>	<ul style="list-style-type: none"> <li>- Provides immunity from civil damages to licensed physicians and surgeons, volunteer firefighters or any other person who in good faith renders emergency care or assistance without compensation (except as provided below) at the scene of an emergency or accident.</li> <li>- Protected class includes a person properly trained under Montana law who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as the total reimbursement received for the volunteer services does not exceed 25% of the person's gross annual income or \$ 3,000 a calendar year, whichever is greater.</li> <li>- If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, the refusal does not constitute gross negligence or a willful or wanton act or omission.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence or willful or wanton acts or omissions.</li> </ul>	
<p><b>NEBRASKA</b></p> <p><b>NEB. REV. STAT. ANN. §25-21,186</b> (Emergency care at scene of emergency; persons relieved of civil liability, when)</p> <p><b>NEB. REV. STAT. ANN. §35-107</b> (Volunteer department; emergency first aid; members; immunity from liability; when)</p> <p><b>NEB. REV. STAT. ANN. §38-1234</b> (Out-of-hospital emergency care provider; liability within scope of practice)</p>	<ul style="list-style-type: none"> <li>- Sec. 25-21, 186 provides immunity from civil damages to any person who gratuitously renders emergency care at the scene of an accident or other emergency for any act or omission in rendering the emergency care or as a result of any act or failure to act to provide or arrange for medical treatment or care for the injured person.</li> <li>- Sec. 35-107 provides immunity from civil damages to any member of a volunteer fire department or of a volunteer first-aid, rescue, or emergency squad which provides emergency public first-aid and rescue services as a result of his acts of commission or omission arising out of and in the course of his rendering in good faith any such services as such member <ul style="list-style-type: none"> <li>» Such immunity shall not extend to the operation of any motor vehicle in connection with such services.</li> <li>» <b>STANDARD OF CARE</b> is willful or wanton act of commission or omission.</li> </ul> </li> <li>- Sec. 38-1234 provides that no act of commission or omission of any out-of-hospital emergency care provider while rendering emergency medical care within the limits of his or her licensure or status as a trainee to a person who is deemed by the provider to be in immediate danger of injury or loss of life shall impose any liability on any other person, and this section shall not relieve the out-of-hospital emergency care provider from personal liability, if any.</li> </ul>	<ul style="list-style-type: none"> <li>- Sec. 25-21, 186: Interpretation of "gratuitous": County deputy's conduct was not gratuitous and thus this provision did not operate to provide him with immunity, because the court found that the deputy owed plaintiff a duty to conduct a reasonable accident investigation in light of the apparent risks. <i>Drake v. Drake</i>, 618 N.W.2d 650 (2000).</li> <li>- Sec. 25-21, 186: Interpretation of "person" (Attorney General Opinion): "Person" who renders care pursuant to this section encompasses both individuals and organizations. 1988 Op. Att'y Gen. No. 17.</li> <li>- Sec. 35-107: Applicability (Attorney General Opinions): <ul style="list-style-type: none"> <li>» Section applies to emergency medical technicians so long as they are volunteers. 1993 Op. Att'y Gen. No. 101</li> <li>» Special provisions in this section, limiting the liability of certified ambulance attendants and volunteer firefighters and other rescue or emergency squad personnel to wanton, willful or grossly negligent acts or omissions, applies even if they are employed by a political subdivision. 1988 Op. Att'y Gen. No. 6.</li> </ul> </li> </ul>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>NEVADA</b></p> <p><b>NRS 41.500</b> (Liability of persons who render emergency care)<sup>26</sup></p> <p><b>NRS 41.504</b> (Physicians, physician assistants and registered nurses who give instruction or provide supervision to emergency medical attendant during emergency; emergency medical attendants, physician assistants and nurses who obey instruction given by physician, physician assistant or nurse during emergency.)<sup>27</sup></p> <p><b>NRS 41.505</b> (Physicians, physician assistants, nurses and dentists.)<sup>28</sup></p> <p><b>NRS 41.506</b> (Physicians, physician assistants and nurses who render certain emergency obstetrical care; licensed medical facilities in which certain emergency obstetrical care is rendered.)<sup>29</sup></p>	<ul style="list-style-type: none"> <li>- Liability immunity for any: (i) person; (ii) volunteer driver or attendant on an ambulance; (iii) member of a search and rescue organization; or (iv) volunteer fire-fighting who renders care or assistance in any emergency.</li> <li>- Liability immunity for any person who renders cardiopulmonary resuscitation and has: (i) completed a course in cardiopulmonary resuscitation; (ii) completed a basic emergency care course; or (iii) follows the instructions of an emergency medical services agency.</li> <li>- Liability immunity for any person who renders emergency medical care involving the use of an automated external defibrillator.</li> <li>- Liability immunity for any physician, physician assistant or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant, physician assistant or registered nurse at the scene of an emergency or while transporting a person from the scene of an emergency. The emergency medical attendant, physician assistant or registered nurse who obeys such instruction is also provided liability immunity.</li> <li>- Liability immunity for any physician, physician assistants, nurse or dentist who renders emergency care or assists during labor or delivery. Does not apply if occurring in a licensed medical facility or a patient relationship previously existed.</li> <li>- Standard of care is gross negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- Factors constituting an “emergency” include: “suddenness, the unexpected, necessity for immediate action, and lack of time for a measured evaluation of alternative courses of action, their respective efficacy and priority” and the history and language of the statute make it clear that it was intended to protect from liability those rendering aid to injured persons only. <i>Buck v. Greyhound</i>, 105 Nev. 756, 783 P.2d 437 (1989)</li> </ul>
<p><b>NEW HAMPSHIRE</b></p> <p><b>RSA 508:12</b> (Aid at Scene of Emergency or to Victim of Crime)<sup>30</sup></p> <p><b>RSA 508:12-A</b> (Limitation of Liability)<sup>31</sup></p> <p><b>RSA 508:12-B</b> (Liability Limited; Fire Department, Emergency Service, and Rescue Squad Members)<sup>32</sup></p> <p><b>RSA 153-A:31</b> (Automatic External Defibrillation, Limited Liability)<sup>33</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes for medical, non-medical and volunteer emergency personnel.</li> <li>- The medical personnel statute provides liability immunity for any licensed physician, registered nurse, hospital or licensed emergency medical care provider for any advice, consultation or orders given to emergency medical care provides prior to the arrival of the patient at the health facility.</li> <li>- The nonmedical personnel statute provides liability immunity for any person who renders emergency care at the happening of an emergency or a crime.</li> <li>- No person who is a volunteer, “part paid” or “call” member of a nonprofit fire department, emergency service or rescue squad shall be held personally liable for any act performed in the furtherance of his official duties.</li> <li>- Standard of care is gross negligence or willful and wanton negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- Bill (HB118) passed by the House and currently being considered by the State Senate would grant civil and criminal immunity to those who call 911 for drug or alcohol-related emergencies, as well as immunity to the subject of such call.<sup>34</sup></li> </ul>

26 <https://leg.state.nv.us/NRS/NRS-041.html#NRS041Sec500>

27 <https://leg.state.nv.us/NRS/NRS-041.html#NRS041Sec504>

28 <https://leg.state.nv.us/NRS/NRS-041.html#NRS041Sec505>

29 <https://leg.state.nv.us/NRS/NRS-041.html#NRS041Sec506>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>NEW JERSEY</b></p> <p><b>NJSA 2A:62A-1</b> (Good Samaritan Act)<sup>35</sup></p> <p><b>NJSA 2C:35-30</b> (Immunity from liability, certain circumstances, for persons seeking medical assistance for someone experiencing a drug overdose.)<sup>36</sup></p>	<ul style="list-style-type: none"> <li>- Liability immunity for any individual, including licensed practitioners and volunteer emergency personnel, who in good faith renders emergency care at the scene of an emergency or transporting a victim to a medical facility.</li> <li>- Liability immunity for any law enforcement officer and firefighter (volunteer or paid) rendering care at the scene of an accident or transporting a victim to a medical facility. Standard of care is gross negligence.</li> <li>- Liability immunity for a health care professional who in good faith responds to a life-threatening emergency within a health care facility if such individual's duty does not require a response to a patient emergency situation. Standard of care is gross negligence.</li> <li>- Liability immunity for any person who in good faith provides or uses a defibrillator to render emergency care.</li> <li>- Criminal immunity for any person who in good faith seeks medical assistance for someone experiencing a drug overdose or for a person so experiences a drug overdose and seeks medical assistance or is the subject of a request for medical assistance.</li> </ul>	<ul style="list-style-type: none"> <li>- A bystander may be held liable civilly liable for any "unreasonable" actions that furthered the victim's suffering or injury. <i>Velazquez v. Jiminez</i>, 172 N.J. 240 (2002)</li> <li>- Medical staff and doctors performing emergency care for a patient at a hospital are not protected. <i>Velazquez v. Jiminez</i>, 172 N.J. 240 (2002)</li> </ul>
<p><b>NEW MEXICO<sup>37</sup></b></p> <p><b>N.M. STAT. ANN. § 24-10-3</b> (Persons coming to aid or rescue of another rendering emergency care; release from liability)</p> <p><b>N.M. STAT. ANN. § 24-10-4</b> (Emergency defined)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for gross negligence) for any person who comes to the aid or rescue of another person by providing care or assistance in good faith at or near the scene of an emergency, provided that such assistance is not rendered for remuneration or with the expectation of remuneration or is rendered by a person or agent of a principal who was at the scene of the accident or emergency because he or his principal was soliciting business or performing or seeking to perform some services for remuneration.</li> <li>- "Emergency" means an unexpected occurrence of injury or illness occurring in public or private places to a person that results from: (1) motor vehicle accidents and collisions; (2) acts of God; and (3) other accidents and events of similar nature.</li> </ul>	<ul style="list-style-type: none"> <li>- United States Border Patrol agents who assisted in rescue of motorist following vehicle accident, which rescue resulted in injury to motorist, were not grossly negligent under New Mexico's Good Samaritan law, as would render government liable for motorist's injuries under the Federal Tort Claims Act, despite affidavit of ambulance employee indicating that motorist did not appear in need of agents' assistance; agents were acting at request of state police officer. <i>Ortiz v. U.S. Border Patrol</i> (1999), 39 F.Supp.2d 1321, affirmed 210 F.3d 390.</li> </ul>

30 <http://www.gencourt.state.nh.us/rsa/html/LII/508/508-12.htm>

31 <http://www.gencourt.state.nh.us/rsa/html/LII/508/508-12-a.htm>

32 <http://www.gencourt.state.nh.us/rsa/html/LII/508/508-12-b.htm>

33 <http://www.gencourt.state.nh.us/rsa/html/XII/153-A/153-A-31.htm>

34 <http://www.gencourt.state.nh.us/legislation/2013/HB0118.pdf>

35 [http://lis.njleg.state.nj.us/cgi-bin/om\\_isapi.dll?clientID=218173199&Depth=4&TD=WRAP&advquery=%222A%3a62A-1%22&headingswithhits=on&infobase=statutes.nfo&rank=&record={FD9}&softpage=Doc\\_Frame\\_Pg42&wordsaroundhits=2&x=-319&y=-23&zz=](http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=218173199&Depth=4&TD=WRAP&advquery=%222A%3a62A-1%22&headingswithhits=on&infobase=statutes.nfo&rank=&record={FD9}&softpage=Doc_Frame_Pg42&wordsaroundhits=2&x=-319&y=-23&zz=)

36 [http://lis.njleg.state.nj.us/cgi-bin/om\\_isapi.dll?clientID=218177406&Depth=4&TD=WRAP&advquery=%222C%3a35-30%22&headingswithhits=on&infobase=statutes.nfo&rank=&record={19E3}&softpage=Doc\\_Frame\\_Pg42&wordsaroundhits=2&x=-319&y=-23&zz=](http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=218177406&Depth=4&TD=WRAP&advquery=%222C%3a35-30%22&headingswithhits=on&infobase=statutes.nfo&rank=&record={19E3}&softpage=Doc_Frame_Pg42&wordsaroundhits=2&x=-319&y=-23&zz=)

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>NEW YORK</b><sup>38</sup></p> <p><b>N.Y. PUBLIC HEALTH LAW § 3000-A</b> (Emergency medical treatment)</p> <p><b>N.Y. EDUCATION LAW § 6527</b> (Special provisions)</p>	<ul style="list-style-type: none"> <li>- Public health statute provides liability immunity (except when liable for gross negligence) for any person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor’s office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill, or injured.</li> <li>- Public health statute also provides liability immunity (except when liable for his/her/its own negligence, gross negligence or intentional misconduct) for any person or entity that purchases, operates, facilitates or makes available certain types of devices (e.g., defibrillator, epi-pen or resuscitation equipment) with respect to the use of that equipment by a good Samaritan (as described above).</li> <li>- Education statute provides liability immunity (except when liable for gross negligence) for any licensed physician that voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor’s office or any other place having proper and necessary medical equipment to a person who is unconscious, ill or injured. Does not extend to acts or omissions by a physician while rendering professional services in the ordinary course of his practice.</li> </ul>	<ul style="list-style-type: none"> <li>- Health club was not vicariously liable for breaching a common-law duty of care that employees had assumed by coming to member’s aid as “Good Samaritans”; employee’s failure during an ongoing crisis to check whether the cabinet door to access defibrillator was locked before searching for the key, and the treatment of member with CPR instead of the defibrillator did not constitute gross negligence. <i>Digiulio v. Gran, Inc.</i> (1st Dept. 2010) 74 A.D.3d 450, 903 N.Y.S.2d 359, <i>leave to appeal granted</i> 16 N.Y.3d 701, 917 N.Y.S.2d 108, 942 N.E.2d 319, <i>affirmed</i> 17 N.Y.3d 765, 929 N.Y.S.2d 71, 952 N.E.2d 1064, <i>reargument denied</i> 17 N.Y.3d 881, 933 N.Y.S.2d 636, 957 N.E.2d 1138.</li> </ul>

37 <http://www.nmonesource.com/nmnxtadmin/NMPublic.aspx>

38 <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>NORTH CAROLINA</b><sup>39</sup></p> <p><b>N.C. GEN. STAT. § 20-166</b> (Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability)</p> <p><b>N.C. GEN. STAT. § 90-21.14</b> (First aid or emergency treatment; liability limitation)</p> <p><b>N.C. GEN. STAT. § 90-21.15</b> (Emergency treatment using automated external defibrillator; immunity)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for wanton conduct or intentional wrongdoing) for any person who renders first aid or emergency assistance at the scene of a motor vehicle crash on any street or highway to any person injured as a result of the accident.</li> <li>- Provides liability immunity (except when liable for gross negligence, wanton conduct or intentional wrongdoing) for any person (including a volunteer medical or health care provider at a facility of a local health department, a nonprofit community health center or a volunteer member of a rescue squad) that, without compensation for his services as an emergency health care provider, renders first aid or emergency health care treatment to a person who is unconscious, ill or injured, provided that (1) the reasonably apparent circumstances require prompt decisions and actions in medical or other health care; and (2) the necessity of immediate health care treatment is so reasonably apparent that any delay in rendering treatment would seriously worsen the physical condition or endanger the life of the person.             <ul style="list-style-type: none"> <li>» Also applies to any person that uses a defibrillator and otherwise meets these requirements.</li> <li>» Does not provide immunity for services rendered in the ordinary course of the person’s business/profession.</li> <li>» Provides immunity to volunteer health care provider rendering first aid or emergency treatment to members of athletic teams.</li> </ul> </li> <li>- Provides liability immunity for the person who provides the resuscitation and defibrillator training, the person responsible for the site where the equipment is located and who has provided for the training, and a NC-licensed physician writing a prescription without compensation for a defibrillator whether or not required by federal or state law.</li> </ul>	<ul style="list-style-type: none"> <li>- State Good Samaritan statute insulates the rescuer from liability for ordinary negligence from the person rescued only; rescuers must stand on their own and defend suits maintained by third parties who were allegedly injured as a result of the rescuer’s negligent conduct during the rescue attempt. <i>Hutton v. Logan</i> (2002), 152 N.C.App. 94, 566 S.E.2d 782.</li> <li>- Volunteer emergency medical providers’ treatment of accident victim, in determining that victim, who suffered an open head wound, was dead, and not initiating efforts to resuscitate him, did not amount to gross negligence or wanton conduct within meaning of statute providing immunity for emergency medical care providers, unless the conduct was grossly negligent or wanton; providers’ problem was their lack of knowledge that victim was alive, and even if their lack of knowledge was caused by negligent failure to conduct a sufficiently thorough examination to establish whether victim was living or deceased, that was still ordinary negligence. <i>Green ex rel. Crudup v. Kearney</i> (2011), 719 S.E.2d 137.</li> </ul>

39 <http://law.onecle.com/north-carolina/>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>NORTH DAKOTA</b><sup>40</sup></p> <p><b>N.D. CENT. CODE. § 32-03.1-02.1</b> (Emergency obstetrical services)</p> <p><b>N.D. CENT. CODE. § 43-17-38</b> (Emergency treatment by nonresident physician)</p> <p><b>N.D. CENT. CODE. § 32-03-40</b> (Emergency treatment by firemen, policemen or peace officers)</p> <p><b>N.D. CENT. CODE. § 32-03.1-02</b> (Actions barred)</p> <p><b>N.D. CENT. CODE. § 32-03.1-02.3</b> (Automated external defibrillators—requirements)</p> <p><b>N.D. CENT. CODE. § 39-08-04.1</b> (Emergency care or services rendered—liability)</p> <p><b>N.D. CENT. CODE. § 43-17-37</b> (Emergency treatment by resident physician)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for intentional misconduct or gross negligence) for a ND-licensed physician who renders emergency obstetrical care or assistance to a pregnant woman in active labor that has not been previously cared for by the physician or a professional associate of the physician in connection with the pregnancy and whose medical records are not reasonably available to the physician. Does not extend to physician who renders such care with an expectation of remuneration or who collects a fee for such care.</li> <li>- Provides that any physician or surgeon licensed in another state that renders emergency care in ND at the scene of the emergency may only be held to the standard of care specified in N.D. Cent. Code. § 43-17-37 and may not be deemed to be practicing medicine within ND.</li> <li>- Provides liability immunity (except when liable for wanton acts of misconduct or negligence) for any fireman, policeman or peace officer who in good faith renders emergency care at the scene of an emergency.</li> <li>- Provides liability immunity (except when liable for intentional misconduct or gross negligence) for persons or their employers that render aid or assistance necessary or helpful in the circumstances to others who have been injured or are ill as the result of an accident or illness or any mechanical, external or organic trauma. Such persons cannot be named as a defendant in any personal injury civil action by a party in the state.</li> <li>- Provides liability immunity (except when liable for gross negligence or willful or wanton misconduct) for any person who in good faith and without compensation provides emergency care or emergency treatment by using a defibrillator. Extends to a licensed physician who establishes the training on the defibrillator, the person who provides the training, and the person responsible for the site where the defibrillator is located.</li> <li>- Provides liability immunity (except when liable for damages resulting from intoxication, willful misconduct or gross negligence) for any person who is an unpaid volunteer and in good faith renders emergency care or services at or near the scene of an accident, disaster or other emergency or en route to a treatment facility. Does not apply if the care was provided for remuneration or the expectation of remuneration.</li> <li>- Provides that any licensed physician or surgeon that in good faith renders emergency care at the scene of an emergency is expected to render only such emergency care as in the person's judgment is at the time indicated.</li> </ul>	<ul style="list-style-type: none"> <li>- Act of stopping at the scene of an accident and inquiring whether any assistance is needed can constitute the “rendering of aid and assistance” within the meaning of the Good Samaritan Act.</li> <li>- Party claiming benefit of Good Samaritan Act had to establish at least one of two things to have rendered aid or assistance necessary or helpful in the circumstances: (1) that he rendered actions which he reasonably believed were required to prevent death or serious injury and he reasonably believed he could successfully undertake; or (2) that he rendered actions which he reasonably believed would benefit an injured or ill person and he reasonably believed he could successfully undertake. Genuine issues of material fact regarding aider’s state of mind and why he stopped his semi-truck at accident scene precluded summary judgment under the Good Samaritan Act in negligence action brought by motorists who were injured by aider. <i>McDowell v. Gillie</i> (2001), 626 N.W.2d 666.</li> </ul>

40 <http://www.legis.nd.gov/general-information/north-dakota-century-code>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p>OHIO<sup>41</sup></p> <p>OHIO REV. CODE. ANN. § 2305.23 (Liability for emergency care)</p> <p>OHIO REV. CODE. ANN. § 4765.49 (Immunities)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for willful or wanton misconduct) for any person that administers emergency care or treatment at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment. Does not apply if care is rendered for remuneration or the expectation of remuneration. Administering care or treatment as part of one’s duties as a paid member of any organization of law enforcement officers or firefighters does not cause one to be rendering care for remuneration or the expectation of remuneration.</li> <li>- Provides liability immunity (except when liable for willful or wanton misconduct) for a first responder, EMT-basic, EMT-intermediate, or EMT-paramedic that administers emergency medical services. Immunity extends to a physician, physician assistant or registered nurse advising or assisting in the emergency medical services by means of any communication device or telemetering system. Immunity also extends to medical directors and members of cooperating physician advisory boards of EMS organizations. Immunity also extends to certain agencies operating under contract or in joint agreement with an entity that provides emergency medical services. Immunity also extends to students enrolled in EMT training programs.</li> </ul>	<ul style="list-style-type: none"> <li>- An off-duty firefighter who pulls a firefighter pinned to the ground by a stream of rushing water from danger is immunized from liability for his negligent acts under the Good Samaritan statute. <i>Held v. City of Rocky River</i> (Cuyahoga 1986), 34 Ohio App.3d 35, 516 N.E.2d 1272.</li> <li>- City and emergency personnel who treated injured individual, who subsequently died as result of injuries, were immune from liability for failure to transport individual to hospital, notwithstanding contention that personnel owed special duty to individual; individual stated that he wished to be left alone, no family member requested that he be transported to hospital, and personnel told family that if his condition deteriorated, family should call and personnel would return, and, even if evidence demonstrated special relationship under common law, statutory immunity rules, rather than common-law rules, applied. <i>Fuson v. Cincinnati</i> (Ohio App. 1 Dist., 12-01-1993), 91 Ohio App.3d 734, 633 N.E.2d 612.</li> <li>- Subjective belief on part of ambulance driver that emergency existed is sufficient to categorize driver’s conduct as effort to provide emergency medical care or treatment to patient for purposes of statute granting limited immunity to ambulance drivers for their conduct in such situations. <i>Campbell v. Colley</i> (Ohio App. 4 Dist., 07-25-1996), 113 Ohio App.3d 14, 680 N.E.2d 201.</li> <li>- “Willful misconduct,” in statutes governing paramedics’ and cities’ liability to emergency callers, implies an intentional disregard of a clear duty or of a definite rule of conduct, a purpose not to discharge such duty, or the performance of wrongful acts with knowledge of the likelihood of resulting injury. <i>Wright v. Hamilton</i> (Ohio App. 12 Dist., 02-05-2001), 141 Ohio App.3d 296, 750 N.E.2d 1190, 2001-Ohio-4194.</li> </ul>

41 <http://codes.ohio.gov/orc/>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>OKLAHOMA<sup>42</sup></b></p> <p><b>59 OKLA. STAT. ANN. § 518</b> (Emergency care or treatment—Immunity from civil damages or criminal prosecution)</p> <p><b>76 OKLA. STAT. ANN § 5</b> (Responsibility for negligence—“Good Samaritan Act”)</p> <p><b>76 OKLA. STAT. ANN. § 5.1</b> (Indemnification of private citizens or their dependents for consequences of meritorious action)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity for any person who is a licensed practitioner of a healing art in the state who in good faith renders emergency care or treatment at the scene of the emergency. Statute provides immunity from criminal prosecution for any person who is a licensed practitioner of a healing art who in good faith renders emergency care or treatment to a minor without the consent of the parent or guardian, provided treatment was performed under emergency conditions and in good faith.</li> <li>- Provides liability immunity (except when liable for gross negligence or willful or wanton wrongs) for any person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or ancillary services (included licensed registered and practical nurses) who under emergency circumstances that suggest the giving of aid is the only alternative to probable death or serious bodily injury, in good faith, voluntarily and without compensation provides emergency care to an injured person or any person in need of immediate medical aid. Immunity extends to care consisting of artificial respiration, restoration of breathing, or preventing or retarding loss of blood or aiding or restoring heart action or circulation of blood. Immunity extends to care requiring performance of surgery or other operation on any individual who was the victim of an accidental act and is not able to consent to the procedure. Does not apply where the victim is an adult who is conscious and capable of giving or refusing consent, or if the victim’s spouse, parent or guardian in case of a minor or incompetent person can be reached in a reasonable time considering the condition of the victim and consistent with good medical practice, and unless concurrence is obtained for such emergency surgery or operation from one other person licensed in the state to perform surgery.</li> <li>- State can compensate private citizens or their dependents for any injury, death or damage sustained by such persons for their principal support as a direct consequence of meritorious action as provided in the Good Samaritan Act, to the extent not compensated from any other source.</li> </ul>	<ul style="list-style-type: none"> <li>- Conduct of doctor, who had no prior contractual relationship with patient in need of emergency care, qualified as rendering or attempting to render care, thus invoking Good Samaritan Act’s protection from claims of negligence, and thus, doctor was statutorily immune from claims of negligence under Act with respect to wrongful death action brought by parents of patient, who died after giving birth; doctor had no direct contractual relationship with patient, he did not work for the hospital, and he merely happened to be at the emergency room going through records and visiting his own patient when the code blue was called. <i>Gomes v. Hameed</i>, Okla., 184 P.3d 479 (2008), rehearing denied.</li> <li>- Psychiatrist who provided emergency treatment to patient who later committed suicide was immune from liability for simple negligence under Good Samaritan Act, in malpractice action by patient’s estate, given that psychiatrist was called to treat patient by the patient’s neighbor, who was also a physician, patient was a stranger who appeared to need immediate help, and psychiatrist had no prior contractual relationship with the patient. <i>Estate of Youn v. Kula</i>, Okla.Civ.App. Div. 3, 125 P.3d 705 (2005).</li> </ul>

42 <http://www.oklegislature.gov/osstatuestitle.html>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>OREGON<sup>43</sup></b></p> <p><b>OR. REV. STAT. § 30.800</b> (Emergency medical assistance)</p> <p><b>OR. REV. STAT. § 30.807</b> (Emergency transportation assistance)</p>	<ul style="list-style-type: none"> <li>- Provides immunity liability (except when liable for gross negligence) for any person rendering emergency medical assistance (defined as (1) medical or dental care not provided in a place where emergency medical or dental care is regularly available, including but not limited to a hospital, industrial first-aid station or a physician's or dentist's office, given voluntarily and without expectation of compensation to an injured person in need of immediate medical or dental care and under emergency circumstances that suggest the giving of assistance is the only alternative to death or serious physical after-effects; or (2) medical care provided voluntarily and in good faith and without expectation of compensation by an Oregon-licensed physician in his/her professional capacity as a team physician at a public or private school or college athletic event or as a volunteer physician at other athletic events).</li> <li>- Provides immunity liability (except when liable for gross negligence) for any person rendering emergency transportation assistance (defined as transportation provided to an injured or ill person who is in need of immediate medical care: (1) under emergency circumstances that suggest the giving of assistance is the only alternative to death or serious physical after-effects; (2) from a place where emergency medical care is not regularly available; (3) in the absence of a personal refusal of such assistance by the injured or ill person or responsible relative of the person; and (4) which may include directions on the transportation provided through means of radio or telecommunications by a medically trained person who practices in a hospital and who is not at the location of the injured or ill person).</li> </ul>	
<p><b>PENNSYLVANIA</b></p> <p><b>42 PA. CONS. STAT. ANN. § 8331</b> (Medical Good Samaritan Immunity)<sup>44</sup></p> <p><b>42 PA. CONS. STAT. ANN. § 8332</b> (Nonmedical Good Samaritan Immunity)<sup>45</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes for medical and non-medical personnel.</li> <li>- The medical personnel statute provides liability immunity for any physician or any other practitioner of the healing arts or any registered nurse, licensed by any state, who happens by chance upon the scene of an emergency or who arrives on the scene of an emergency by reason of serving on an emergency call panel or similar committee of a county medical society or who is called to the scene of an emergency by the police or other duly constituted officers of a government unit or who is present when an emergency occurs and who, in good faith, renders emergency care at the scene of the emergency.</li> <li>- The nonmedical personnel statute provides liability immunity for any person who renders emergency care, first aid or rescue at the scene of an emergency, or moves the person receiving such care, first aid or rescue to a hospital or other place of medical care.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence or intent to harm.</li> </ul>	<ul style="list-style-type: none"> <li>- The nonmedical personnel statute has two notable exceptions: (1) a driver of an ambulance or other emergency or rescue vehicle is not relieved from liability arising from operation or use of such vehicle; and (2) the person shall be, at the time of rendering the emergency care, first aid or rescue or moving the person receiving emergency care, first aid or rescue to a hospital or other place of medical care, the holder of a current certificate evidencing the successful completion of a course in first aid, advanced life saving or basic life support and must be performing techniques and employing procedures consistent with the nature and level of the training for which the certificate has been issued.</li> </ul>

43 <http://www.leg.state.or.us/ors/>

44 <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/42/00.083.031.000.HTM>

45 <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/42/00.083.032.000.HTM>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>RHODE ISLAND<sup>46</sup></b></p> <p><b>R.I. GEN. LAWS. § 9-1-27.1</b> (Good Samaritan—Immunity from liability)</p> <p><b>R.I. GEN. LAWS. § 9-1-34</b> (Administering cardiopulmonary resuscitation or automated external defibrillation—Immunity from liability)</p> <p><b>R.I. GEN. LAWS. § 5-37-14</b> (Discrimination against particular schools—Persons exempt from requirements—Immunity from liability)</p>	<ul style="list-style-type: none"> <li>- Provides immunity liability (except when liable for gross negligence or willful or wanton misconduct) for persons who voluntarily and gratuitously render emergency assistance to a person in need of it, including the administration of life saving treatment to persons in anaphylactic shock.</li> <li>- Provides immunity liability (except when liable for gross, willful or wanton negligence) for persons that, whether in an official capacity or as a private volunteer, gratuitously render emergency assistance in the nature of cardiopulmonary resuscitation or automated external defibrillation; provided that the immunity applies only to those persons trained in accordance with American Medical Association or American Red Cross standards. Immunity also extends to persons providing approved training in cardiopulmonary resuscitation or automated external defibrillation in accordance with AMA or ARC standards and to physicians providing medical direction oversight for programs of automated external defibrillation use. Also extends to property lessees and owners where the emergency assistance occurs and the owners of the actual life saving equipment.</li> <li>- Provides liability immunity (except when liable for gross, willful or wanton negligence) for physicians licensed in other states or for Army, Navy, Air Force or marine hospital surgeons that voluntarily and gratuitously and other than in the ordinary course of their employment render emergency medical assistance to a person in need of it. Does not apply where services are rendered at any hospital, doctors' offices or clinic where such services are normally rendered.</li> </ul>	
<p><b>SOUTH CAROLINA<sup>47</sup></b></p> <p><b>S.C. STAT. ANN. § 15-1-310</b> (Liability for emergency care rendered at scene of accident)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for gross negligence or willful or wanton misconduct) for any person who in good faith gratuitously renders emergency care at the scene of an accident or emergency.</li> </ul>	<ul style="list-style-type: none"> <li>- Court found that statute immunizes a rescuer from civil liability only where the rescuer is guilty of nothing more than ordinary negligence. <i>Ballou v. Sigma Nu General Fraternity</i>, 291 S.C. 140 (S.C. App. 1986).</li> <li>- Bill is currently pending in the South Carolina legislature (House Bill No. 4145) that would clarify that immunity extends to the administration of life saving procedures such as CPR, and to extend immunity to the employer of a CPR-certified employee that administers life saving procedures.</li> </ul>

46 <http://webserver.rilin.state.ri.us/Statutes/>

47 <http://www.scstatehouse.gov/code/statmast.php>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>SOUTH DAKOTA<sup>48</sup></b></p> <p><b>S.D. STAT. § 36-4B-23</b> (Immunity from liability of representatives of sponsoring organization—Exceptions)</p> <p><b>S.D. STAT. § 36-4B-21</b> (Immunity from liability of licensees—Exceptions)</p> <p><b>S.D. STAT. § 20-9-4</b> (Immunity of medical practitioner licensed in another state—Acts not deemed professional practice)</p> <p><b>S.D. STAT. § 20-9-4.1</b> (Immunity from liability for emergency care—Exception)</p> <p><b>S.D. STAT. § 36-4B-1</b> (Definition of terms)</p> <p><b>S.D. STAT. § 20-9-3</b> (Licensed medical practitioners immune from liability for emergency care)</p> <p><b>S.D. STAT. § 36-4B-24</b> (Immunity from liability of supervising physician—Exception)</p>	<ul style="list-style-type: none"> <li>- Provides liability immunity (except when liable for gross negligence or willful misconduct) for principals, agents, employees or representatives of agencies, organizations, institutions, corporations, or entities of state or local governments that sponsor, authorize, support, finance or supervise the functions of EMS personnel for any act or omission occurring in connection with their training or outside a hospital where the life of a patient is in immediate danger (unless act is inconsistent with the training of the EMS personnel).</li> <li>- Emergency medical services are defined to mean health care provided to the patient at the scene, during transportation to a medical facility, between medical facilities and upon entry at the medical facility.</li> <li>- Provides liability immunity (except when liable for gross negligence or willful misconduct) for any person licensed under the relevant chapter of the statute in connection with services rendered outside a hospital where the life of a patient is in immediate danger, unless the services are inconsistent with the person’s training.</li> <li>- Provides liability immunity for any physician, surgeon, osteopath, registered nurse or licensed practical nurse duly licensed outside the state who renders emergency care in the state at the scene of the emergency and provides that such person shall not be deemed to be practicing medicine or nursing within the state.</li> <li>- Provides liability immunity (except when liable for willful, wanton or reckless acts of commission or omission) to any peace officer, conservation officer, member of any fire department, police department and their first aid, rescue or emergency squad, or any citizen acting as a volunteer, or any other person for acts arising out of and in the course of rendering in good faith emergency care and services during an emergency which is judged to be indicated and necessary at the time.</li> <li>- Provides liability immunity for any physician, surgeon, osteopath, registered nurse or licensed practical nurse licensed in the state who in good faith renders in the state emergency care at the scene of the emergency.</li> <li>- Provides liability immunity (except when liable for gross negligence or willful misconduct) to any physician who supervises the functions of EMS personnel licensed and authorized in the state, including advanced life support personnel, where the life of the patient is in immediate danger.</li> </ul>	<ul style="list-style-type: none"> <li>- By adopting “Good Samaritan” statute, Legislature adopted public policy of encouraging persons, and not just professional persons, to act on their instincts when confronted with emergency situations. <i>Thompson v. Summers</i>, 567 N.W.2d 387, 1997 S.D. 103.</li> <li>- Purpose of Good Samaritan statute is to encourage persons to provide emergency care or services without fear of liability.</li> <li>- Volunteer fire fighter driving to the fire hall in a personal vehicle in response to an emergency call was rendering “emergency care or services,” and thus Good Samaritan statute would preclude liability unless passenger who was injured when her car collided with the vehicle fire fighter was driving showed that fire fighter’s conduct was willful, wanton or reckless.</li> <li>- Good Samaritan statute does not limit liability only for actions occurring at the scene of an accident.</li> <li>- A rescuer is shielded from liability for any civil damages under the Good Samaritan statute, not just civil damages related to the person receiving the emergency care or service. <i>In re Certification of a Question of Law from United States District Court, District of South Dakota, Southern Division</i>, 779 N.W.2d 158, 2010 S.D. 16.</li> </ul>

48 <http://legis.state.sd.us/statutes/>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>TENNESSEE</b></p> <p><a href="#">63 TENN. CODE ANN. § 6-218</a> General Immunity<sup>49</sup></p>	<ul style="list-style-type: none"> <li>- Immunity granted to any person who renders emergency care, including those licensed to practice medicine and surgery and those licensed to render ancillary medical services, such as members of a volunteer first aid rescue or emergency squad.</li> <li>- Immunity granted when emergency care is rendered: (1) at the scene of an accident or medical emergency or disaster; (2) while en route from an emergency scene to a medical facility and while assisting medical personnel at the receiving medical facility; or (3) to persons participating in performances, exhibitions, banquets, sporting events, religious or other gatherings open to the general public with or without charge.</li> <li>- A receiving medical facility will not be liable for any acts taken by a member of a volunteer first aid, rescue or emergency squad while such volunteer is assisting medical personnel at the receiving medical facility.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- Where a pre-existing duty exists between the injured party-plaintiff and the defendant, such as the duty owed by a property owner to a social guest-invitee, the Good Samaritan statute will not relieve liability. <i>Lindsey v. Miami Dev. Corp.</i>, 689 S.W.2d 856 (Tenn. 1985).<sup>50</sup></li> <li>- An opinion of the Tennessee Attorney General makes specific application of the Good Samaritan statute in illustrating its impact on emergency medical technicians. Tenn. Op. Att. Gen. No. 03-093.<sup>51</sup></li> </ul>
<p><b>TEXAS</b></p> <p><a href="#">TEX. CIV. PRAC. &amp; REM. CODE § 74.151</a> General Immunity<sup>52</sup></p> <p><a href="#">TEX. CIV. PRAC. &amp; REM. CODE § 74.152</a> Immunity for emergency medical service personnel<sup>53</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes for general immunity and unlicensed emergency medical personnel</li> <li>- Immunity granted to any person who renders emergency care during an emergency including a person who is a volunteer first responder or who administers emergency care with an automated external defibrillator.</li> <li>- Care must be rendered without receiving or having the expectation of receiving remuneration (regardless of whether the provider of the care is legally entitled to compensation).</li> <li>- A person whose negligence caused the emergency does not receive liability immunity.</li> <li>- Immunity granted to a person who is not licensed in healing arts and provides emergency care in good faith acting as emergency medical service personnel, regardless of whether the care is provided for or in expectation of remuneration.</li> <li>- <b>STANDARD OF CARE</b> for both statutes is willful and wanton negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- A beekeeper who did not warn about the risk of bee stings could not raise a Good Samaritan defense because his ordinary negligence in failing to warn was a proximate cause of the decedent's death. <i>Wilhelm v. Flores</i>, 133 S.W.3d 726 (Tex. App. 2003).<sup>54</sup></li> <li>- A doctor assisting in a hospital can receive immunity from medical negligence if the doctor can establish all the elements to receive Good Samaritan immunity. When a doctor who was not on call responded to an emergency labor and delivery and did not act with willful or wanton negligence, the expectation of remuneration was a question of fact in determining whether the responding doctor was in expectation of remuneration, and thus an issue in determining whether the doctor was protected by Good Samaritan immunity. To receive immunity, the defendant must prove that he or she would not ordinarily be entitled to receive payment under the circumstances in which the emergency care was provided. <i>Ramirez v. McIntyre</i>, 103 S.W.3d 741 (Tex. 2003).<sup>55</sup></li> <li>- Telephoning or radioing for emergency medical assistance at the scene of an accident or emergency is not within the meaning of "administering emergency care" so as to trigger Good Samaritan immunity. <i>Howell v. City Towing Assocs., Inc.</i>, 717 S.W.2d 729 (Tex. App. San Antonio 1986).<sup>56</sup></li> </ul>

49 [http://www.diabetes.org/assets/pdfs/state-school-laws/tn\\_code63-6-218\\_dc.pdf](http://www.diabetes.org/assets/pdfs/state-school-laws/tn_code63-6-218_dc.pdf)

50 [http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19850506\\_0003.TN.htm/qx](http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19850506_0003.TN.htm/qx)

51 <http://www.tn.gov/attorneygeneral/op/2003/op/op93.pdf>

52 <http://law.onecle.com/texas/civil/74.151.00.html>

53 <http://law.onecle.com/texas/civil/74.152.00.html>

54 [http://www.leagle.com/decision/2003859133SW3d726\\_1815](http://www.leagle.com/decision/2003859133SW3d726_1815)

55 <https://www.supreme.courts.state.tx.us/historical/2003/jun/011203.htm>

56 [http://www.leagle.com/decision/19861446717SW2d729\\_11347](http://www.leagle.com/decision/19861446717SW2d729_11347)

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p>UTAH</p> <p><a href="#">UTAH CODE ANN. § 78B-4-501(1)</a> Good Samaritan Act; General (Non-medical) Immunity<sup>57</sup></p> <p><a href="#">UTAH CODE ANN. § 58-13-2</a> Medical Immunity; Emergency Care Rendered by Licensee<sup>58</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes govern immunity in general and immunity for those licensed to practice medicine or perform ancillary medical services.</li> <li>- Immunity granted to any person who renders emergency care at or near the scene of, or during an emergency, so long as that person did not cause the emergency.</li> <li>- Under medical immunity statute, immunity is granted to any licensed health professional (including physician, surgeon, osteopathic physician, dentist or hygienist, physician assistant, nurse, podiatrist, respiratory care practitioner, pharmacist, etc.) who renders emergency care at the scene of an emergency when the licensee is under no duty to respond.</li> <li>- "Emergency" means an unexpected occurrence involving injury, threat of injury, illness to a person or the public, including vehicle accidents, actual or threatened discharges, removal or disposal of hazardous material and other accidents of a similar nature. "Emergency care" includes actual assistance or advice offered to avoid, mitigate or attempt to mitigate the effects of an emergency.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence.</li> </ul>	<ul style="list-style-type: none"> <li>- "Gratuitously" means without expecting compensation, regardless of whether compensation is actually paid. <i>Flynn v. U.S.</i>, 902 F.2d 1524 (1990), <i>aff'g</i> 681 F.Supp. 1500 (D. Utah 1988).<sup>59</sup></li> <li>- Physicians receive Good Samaritan immunity when responding to in-hospital emergency if they have no pre-existing duty to respond. Whether a physician has a duty is an issue of fact determined by considering all the circumstances, including whether the doctor was on call, contractually obligated to respond, hospital rules obligated the physician to respond, a doctor/patient relationship existed, and whether a duty was created by physician's practice or custom of responding to similar emergencies. <i>Hirpa v. IHC Hosp., Inc.</i>, 948 P.2d 785 (Utah 1997).<sup>60</sup></li> </ul>

57 [http://le.utah.gov/code/TITLE78B/htm/78B04\\_050100.htm](http://le.utah.gov/code/TITLE78B/htm/78B04_050100.htm)

58 [http://le.utah.gov/code/TITLE58/htm/58\\_13\\_000200.htm](http://le.utah.gov/code/TITLE58/htm/58_13_000200.htm)

59 [http://www.leagle.com/decision/19902426902F2d1524\\_12133](http://www.leagle.com/decision/19902426902F2d1524_12133)

60 <http://caselaw.findlaw.com/ut-supreme-court/1001444.html>

JURISDICTION	GENERAL THEME OF STATUTE	NOTES
<p><b>VIRGINIA</b></p> <p><b>VA. CODE § 8.01-225.A</b> Varied Immunity Statutes<sup>61</sup></p> <p><b>VA. CODE § 8.01-225.B</b> Medical immunity<sup>62</sup></p>	<ul style="list-style-type: none"> <li>- Statute has a general immunity provision and also provides immunity in a number of specific scenarios enumerated in separate clauses of the statute.</li> <li>- Immunity is granted to any person, including any state-certified medical care attendant or technician, who, without compensation, renders emergency care to any ill or injured person: (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from such incident; or (iii) en route to any hospital, medical clinic or doctor's office.</li> <li>- Immunity is also specifically granted to any person who in good faith and without compensation renders emergency cardiopulmonary resuscitation, cardiac defibrillation or other life-sustaining or resuscitating treatments under the same circumstances.</li> <li>- Among other provisions of the statute, immunity is specifically granted in circumstances when delivering a baby, performing care on ski slopes, administering glucagon or insulin to a child in school, or naloxone to a person experiencing a life-threatening overdose.</li> <li>- No <b>STANDARD OF CARE</b> specified other than that care must be rendered in good faith.</li> <li>- Medical immunity statute grants immunity to any physician serving as a medical director for a licensed emergency medical service resulting from emergency medical services performed by personnel of the licensed agency, including when directing such emergency services through a communications device.</li> <li>- To invoke medical immunity, physician must be serving without compensation and the <b>STANDARD OF CARE</b> is gross negligence or willful misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- Immunity is not granted to a certified medical care attendant or technician if there is an act or omission that involves a violation of health or other state regulations in the rendering of such care or assistance.</li> <li>- No part of the statute relieves liability relating to the operation of a motor vehicle.</li> </ul>
<p><b>WASHINGTON</b></p> <p><b>WA. REV. CODE § 4-24.300(1)</b> General Immunity<sup>63</sup></p>	<ul style="list-style-type: none"> <li>- Immunity granted to any person, including a volunteer provider of emergency or medical services, who, without receiving or expecting to receive compensation, renders emergency care at the scene of an emergency or participates in transporting an injured person for emergency medical treatment.</li> <li>- Any person providing emergency care during regular employment and expecting to receive or actually receiving compensation does not benefit from immunity.</li> <li>- <b>STANDARD OF CARE</b> is gross negligence or willful and wanton misconduct.</li> </ul>	<ul style="list-style-type: none"> <li>- Defendant's half-hour delay in transporting the injured party to hospital emergency room did not rise to the level of gross negligence or willful and wanton misconduct that would preclude the protection of Good Samaritan immunity. <i>Youngblood v. Schireman</i>, 53 Wash. App. 95 (Wash. App. 1st Div. 1988).<sup>64</sup></li> <li>- Good Samaritan immunity only precludes a claim asserted by the person receiving the emergency care and not a claim by an injured fellow emergency responder. <i>Maynard v. Ferno-Washington, Inc.</i>, 22 F.Supp. 2d 1171 (E.D. Wash. 1998).<sup>65</sup></li> <li>- Policy behind Good Samaritan immunity prevented an employer from firing a worker where the worker violated employer policy to save a woman from a life threatening hostage situation. <i>Gardner v. Loomis Armored, Inc.</i>, 128 Wash. 2d 931 (1996).<sup>66</sup></li> </ul>

61 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-225>

62 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-225>

63 <http://apps.leg.wa.gov/rcw/default.aspx?cite=4.24.300>

64 [http://www.leagle.com/decision/198814853WnApp95\\_1133](http://www.leagle.com/decision/198814853WnApp95_1133)

65 [http://www.leagle.com/decision/1998119322FSupp2d1171\\_11064](http://www.leagle.com/decision/1998119322FSupp2d1171_11064)

66 [http://www.leagle.com/decision/19961059128Wn2d931\\_11001](http://www.leagle.com/decision/19961059128Wn2d931_11001)

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<p><b>WEST VIRGINIA</b></p> <p><b>55 W.VA. CODE § 7-15</b> General Immunity<sup>67</sup></p>	<ul style="list-style-type: none"> <li>- Immunity granted to any person, including a person licensed to practice medicine or dentistry, who renders emergency care at the scene of an accident or to a victim at the scene of a crime.</li> <li>- No standard of care specified other than that care must be rendered in good faith.</li> </ul>	<ul style="list-style-type: none"> <li>- Where a pre-existing duty exists between the injured party-plaintiff and the defendant, such as the duty owed by a property owner to a social guest invitee, the Good Samaritan statute will not relieve liability. <i>Hovermale v. Berkeley Springs Moose Lodge No. 1483</i>, 165 W.Va. 689 (1980).</li> </ul>
<p><b>WISCONSIN</b></p> <p><b>WIS. STAT.ANN. § 895.48(1)</b> General Immunity</p> <p><b>WIS. STAT.ANN. § 895.48(1M)(A)</b> Immunity for care given at athletic events or contests<sup>68</sup></p>	<ul style="list-style-type: none"> <li>- Separate statutes for emergencies and athletic events or contests.</li> <li>- The emergency care statute grants immunity when three elements are met: (1) care rendered is emergency care, (2) care is rendered at the scene of the emergency or accident, and (3) care is rendered in good faith. Immunity does not extend to health care professionals or employees trained in health care who render emergency care for compensation and within the scope of usual and customary employment or practice, even if that care is rendered at the scene of an emergency or accident or en route to a hospital or medical treatment facility.</li> <li>- Under the second statute immunity is granted to a wide range of health professionals and other positions ancillary to the health professions (including physicians, physician assistants, athletic trainers, chiropractors, first responders, emergency medical technicians and massage therapists) who voluntarily render health care to participants in athletic events or contests sponsored by schools or non-profits.</li> <li>- To receive immunity under the second statute (1) the person rendering care cannot receive compensation, and (2) the care must be rendered at the site of the event or contest, during transportation from the contest to a medical treatment facility, or in a locker room or similar facility immediately before, during or after the contest or event.</li> <li>- No standard of care specified other than that care must be rendered in good faith.</li> </ul>	<ul style="list-style-type: none"> <li>- By not extending immunity to health care professionals or employees receiving compensation, the statute allows for malpractice liability, but does not otherwise cause the receipt of compensation to nullify the immunity (i.e., non-medical care providers can receive compensation and not lose immunity).</li> <li>- The requirement that care be “emergency care” encourages care givers to act without eviscerating protection to the person in need of care. The type of emergency care protected by immunity is ordinarily of a short duration and an interim sort, and an ordinary person should not make care-giving decisions any longer than the emergency situation necessitates. <i>Mueller v. McMillan Warner Ins. Co.</i>, 290 Wis.2d 571 (2006).</li> <li>- In discussing the elements required for immunity, Mueller held that “emergency” means an unexpected happening or unforeseen occurrence or condition and “scene of emergency” is broad enough to include not only the place where the injury occurred but the also the place where at which the care was needed after the injured person was moved. Mueller also held that “emergency care” means the evaluation and initial rapid treatment of medical conditions cause by the incident, but care rendered after some time after the incident and residual monitoring of the injured person was not emergency care and was not entitled to protection. See also <i>Clayton v. Am. Family Mut. Ins. Co.</i>, 305 Wis.2d 766 (2007).</li> </ul>
<p><b>WYOMING</b></p> <p><b>1 WYO. STAT.ANN. § 1-120</b> General Immunity<sup>69</sup></p>	<ul style="list-style-type: none"> <li>- Statute has separate clauses for (1) general individual immunity and (2) immunity for ambulances and rescue volunteers and the organizations that operate the ambulances and rescue vehicles.</li> <li>- Immunity granted to any person, including physicians and surgeons, who in good faith renders emergency care at the place of an emergency or accident without receiving compensation.</li> <li>- Immunity from liability is also granted specifically to unpaid volunteers who staff ambulances and other rescue vehicles, as well as the persons and organizations operating the ambulances and rescue vehicles (whether supported by public or private funds) who do not charge for services rendered during medical emergencies. Immunity under this provision extends to a physician while serving in capacity as medical director of an ambulance service.</li> <li>- No standard of care specified other than that care must be rendered in good faith.</li> </ul>	<ul style="list-style-type: none"> <li>- For emergency volunteer personnel, the statute provides that “unpaid volunteer” includes persons who receive incidental remuneration on a per-call basis or a fee of no more than \$1,000 per year for volunteering.</li> </ul>

67 <http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=55&art=7&section=15>

68 <http://docs.legis.wisconsin.gov/statutes/statutes/895/11/48>

69 <http://law.justia.com/codes/wyoming/2011/title1/chapter1/section1-1-120>

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## OTHER JURISDICTIONS

### People's Republic of China

**SHENZHEN SPECIAL ECONOMIC ZONE, GUANGDONG PROVINCE**

- Promulgated on July 22, 2013 and effective on August 1, 2013.
- Applies only to rescuers who have no legal or contractual obligation to provide assistance to the victim.

- This recently-adopted statute applies only to the Shenzhen Special Economic Zone in Guangdong Province. However, it sets a good example for other cities.

**GOOD SAMARITANS' RIGHTS PROTECTION REGULATION OF THE SHENZHEN SPECIAL ECONOMIC ZONE**

(Chinese: Shenzhen Jingji Tequ Jiuzhuren Quanyi Baohu Guiding)<sup>70</sup>

*Please note that the statute is currently not available in English. Dechert LLP is able to provide its own unofficial English translation if needed.*

- The victims will bear the burden of proof if they wish to claim that the rescuers injured them.
- The rescuer will be exempt from legal liability for unintentional injury or death unless gross negligence is proved.
- A "Good Samaritan" dies or is injured while helping will receive compensation from the government.
- A person who has received help but makes false claims against the Good Samaritan will face administrative punishment, and civil or even criminal charges.
- Good Samaritans can seek the help of legal aid organizations if they face the threat of lawsuits.
- An eyewitness who provides effective evidence of the Good Samaritan's act will be awarded by the government.

### England and Wales

#### COMMON LAW DUTIES

- With the exception of the certain legislation which relates to the employer-employee relationship, there are no statutes in England and Wales which impose a duty on individuals to take affirmative action to help others in need.
- The common law does not impose liability for what are called "pure omissions." No liability is incurred by the Defendant for the mere omission or failure to act.
- *Smith v Littlewoods Organisation Ltd* [1987] A.C. 241 at 247, per Lord Goff: "Why does the law not recognise a general duty of care to prevent others from suffering loss or damage caused by the deliberate wrongdoing of third parties? The fundamental reason is that the common law does not impose liability for what are called pure omissions."
- A failure to act is only actionable in tort if there is a prior duty to act to safeguard the relevant interest of the Claimant. Judges will only impose a duty of care if the following three stage test is satisfied:
  1. Was the damage to the Claimant reasonably foreseeable?
  2. Was there a relationship of sufficient proximity between the Claimant and the Defendant?
  3. Is it "fair, just and reasonable" for the law to impose a duty of care in the situation?
- The House of Lords set out this three-fold test for duty of care in *Caparo Industries plc v Dickman* [1990] 2 AC 605.

<sup>70</sup> [http://www.sz.gov.cn/zfgb/2013/gb845/201308/t20130807\\_2180712.htm](http://www.sz.gov.cn/zfgb/2013/gb845/201308/t20130807_2180712.htm)

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	<ul style="list-style-type: none"> <li>- A person who created a danger, however blamelessly, can have a duty to take precautions to prevent a foreseeable injury from resulting. In such cases, the omission is not considered in isolation but as part of the activity as a whole. The whole activity amounts to a “misfeasance”.</li> </ul>	<ul style="list-style-type: none"> <li>- For example, a motorist who has to leave his vehicle unlit may be under a duty to warn other motorists of the obstruction. <i>Lee v Lever</i> [1974] R.T.R. 25.</li> </ul>

### RESCUE

<ul style="list-style-type: none"> <li>- In the absence of special reasons, neither a private individual nor a public service owes a duty of care to respond to an emergency by attempting a rescue.</li> <li>- If a Defendant takes active steps to effect a rescue, he may assume an obligation to carry it out reasonably competently.</li> <li>- The law distinguishes ineffective rescues (where there is no liability) and a damaging rescue – <i>i.e.</i>, one that aggravates the situation (where liability is incurred). The Defendant will only be liable to the extent that his own acts caused additional damage over and above that which the Claimant would have suffered if the Defendant had not intervened.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Capital and Counties plc v Hampshire County Council</i> [1997] Q.B. 1004 at 1035, per Stuart-Smith L.J.: “[The Defendant is under] no legal obligation [to rescue] ... if he volunteers assistance, his only duty as a matter of law is not to make the victim’s condition worse”.</li> </ul>
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### PARENT-CHILD SPECIAL RELATIONSHIP

<ul style="list-style-type: none"> <li>- A parent cannot stand by and watch his child drown without breaching his duty of care and will incur liability if he does. In contrast, a disinterested bystander without a special relationship cannot be found liable in damages for injuries that befall another individual which his intervention could have prevented.</li> </ul>	<ul style="list-style-type: none"> <li>- See <i>Surtees v Kingston-upon-Thames Borough Council</i> [1991] 2 FLR 559 (see attached PDF) where the affirmative duty of a parent (in that case a foster parent) to take care to prevent harm to their child was considered by the Court of Appeal.</li> </ul>
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### POLICE

<ul style="list-style-type: none"> <li>- There is no legal obligation on police to respond to an emergency.</li> <li>- Where the Defendant assumes responsibility to a Claimant to perform a service and fails to do so, he can be liable for the loss suffered by the Claimant in relying on that undertaking.</li> </ul>	<ul style="list-style-type: none"> <li>- In <i>Alexandrou v Oxford</i> [1993] 4 All ER 328 the Claimant’s action failed against the local police after they had ignored a message from his burglar alarm. The police owed him no duty of care either to check his property or respond to the alarm’s message.</li> <li>- In <i>Swinney v Chief Constable of Northumbria Police</i> [1997] Q.B. 464 the Court held that where the police service had given an undertaking to take action, it could owe an affirmative duty to take reasonable care to honour that undertaking.</li> </ul>
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### FIRE BRIGADE

<ul style="list-style-type: none"> <li>- The fire brigade is under no duty to respond to an emergency.</li> </ul>	<ul style="list-style-type: none"> <li>- In the conjoined cases of <i>Capital and Counties plc v Hampshire County Council; John Munroe (Acrylics) Ltd v London Fire and Civil Defence Authority; Church of Jesus Christ of the Latter-Day Saints (GB) v West Yorkshire Fire and Civil Defence Authority</i> [1997] Q.B. 1004 the Court of Appeal held that the fire brigade is under no duty to attend to fires.</li> </ul>
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	<ul style="list-style-type: none"> <li>- However, if the fire brigade does attend and actually aggravates the situation, the Claimant's claim can succeed. Doing a positive act that makes the situation worse may result in a duty of care being owed.</li> </ul>	<ul style="list-style-type: none"> <li>- One of the claimants in <i>Capital and Counties plc v Hampshire County Council</i> [1997] Q.B. 1004 succeeded where the defendant fire brigade by the positive act of negligently turning off the sprinklers had exacerbated the fire.</li> </ul>

## EMPLOYERS

<ul style="list-style-type: none"> <li>- Employers must ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees. Failure to comply with the duties imposed by the legislation can result in prosecution.</li> <li>- Employers are under a general duty to make "adequate and appropriate" first-aid provision for employees if they are injured or become ill at work.</li> <li>- An employer owes a common law duty to take reasonable care for the safety of its employees.</li> </ul>	<ul style="list-style-type: none"> <li>- Health and Safety at Work Act 1974</li> <li>- Health and Safety (First Aid) Regulations 1981</li> <li>- This was articulated in <i>Cavanagh v Ulster Weaving Co Ltd</i> [1960] AC 145 (see attached PDF) which stated: "The ruling principle is that an employer is bound to take reasonable care for the safety of his workmen, and all other rules and formulas must be taken subject to this principle."</li> </ul>
<ul style="list-style-type: none"> <li>- The employer still owes this duty even if they did not cause the initial injury to the employee. This is because employers owe a duty to look after injured workers by having access to appropriate medical attention and adequate medical supplies which mitigates injury.</li> <li>- Where an employer is aware of an employee's vulnerability (whether it is physical or mental) and fails to provide for the employee accordingly, the employer will be in breach of their duty.</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Kasapis v Laimos</i> [1959] 2 Lloyd's Rep 378 (see attached PDF) where it was held that in certain circumstances a defendant could be guilty of negligence if they failed to send for medical attention, but it would depend on what was reasonable in the circumstances (and in this case the defendant had discharged its duty; the claimant, who had been injured at sea, had not repeated his request to see a doctor once the ship had come into port).</li> </ul>
<ul style="list-style-type: none"> <li>- To be held liable the employer must "know of some particular problem or vulnerability" with the employee.</li> <li>- Employers will also owe a duty of care and be held liable where a situation arises which necessitates affirmative action by the employer. This is usually a commonsense approach where an employer should have taken positive steps to safeguard the employee, "his sins are those of omission rather than commission."</li> </ul>	<ul style="list-style-type: none"> <li>- In <i>Walker v Northumberland County Council</i> [1995] 1 All ER 737, an employee was entitled to damages for suffering a second nervous breakdown caused by stress at work after the employer knew of the first breakdown.</li> <li>- In <i>Hatton v Sunderland</i> [2002] EWCA Civ 76, [2002] 2 All ER 1 where defendant employers appealed against a finding of liability for an employee's psychiatric illness caused by stress at work, it was held that in view of the many difficulties of knowing when and why a particular person will go over the edge from pressure to stress and from stress to injury to health, the indications must be plain enough for any reasonable employer to realize that he should do something about it.</li> <li>- In <i>Melville v The Home Office</i> [2005] EWCA Civ 6, the employer failed to provide counseling to an employee who suffered a psychiatric reaction as a result of his job recovering the bodies of prisoners who had committed suicide.</li> </ul>

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### MEDICAL PRACTITIONERS

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| <ul style="list-style-type: none"> <li>- The key consideration is whether a person is or is not a patient. Generally there is no legal obligation to assist a person whom a doctor/employer has not accepted for treatment. However, doctors must abide by their Code of Conduct and may be in breach of this if they fail to act.</li> <li>- Once a person is accepted as a patient, the medical practitioner must exercise all reasonable skill and care in his treatment of that patient. Any negligent error in carrying out treatment, or omission to provide adequate treatment, will be actionable if it has caused injury to the patient. In the UK, a general practitioner owes a duty of care to every patient accepted onto his NHS list, whether permanent or temporary.</li> </ul> |   |
| <ul style="list-style-type: none"> <li>- Hospital authorities and their staff similarly owe a duty to any patient admitted for treatment, including a patient presenting himself at a casualty unit.</li> <li>- If a doctor elects to provide treatment to someone who is not his patient and, therefore, assumes responsibility, he is liable if he fails to exercise proper care and skill and as a result the Claimant's position is made worse.</li> </ul>  | <ul style="list-style-type: none"> <li>- See <i>Barnett v Chelsea and Kensington HMC</i> [1969] 1 Q.B. 428 (in attached PDF) where it was held that since the defendants provided and managed the casualty department to which the deceased presented himself complaining of illness or injury, such a close and direct relationship existed between them and him that they owed him a duty to exercise the skill and care to be expected of a nurse and medical casualty officer acting reasonably notwithstanding that he had not been treated and received into the hospital wards.</li> </ul> |
| <ul style="list-style-type: none"> <li>- In a self-harm scenario, the duty of care turns on whether or not the person is vulnerable. There is no general duty to guard against self-harm with regard to competent and non-vulnerable adults. Such persons have the right, should they wish, to risk harm to themselves or take their own life.</li> <li>- Medical practitioners will be liable if they fail to take precautions to prevent mental patients from committing suicide and, if they know of a particular risk of suicide, where they fail to take reasonable steps to stop the suicide.</li> </ul>  | <ul style="list-style-type: none"> <li>- In <i>Savage v South Essex Partnership NHS Foundation Trust</i> [2008] UKHL 74, the court held that section 2 of the European Court of Human Rights – protecting the right to life – made no difference.</li> </ul>  |

### PHARMACISTS

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| <ul style="list-style-type: none"> <li>- The standard of care demanded of pharmacists is high. A pharmacist does not discharge his duty of care by dispensing the prescription presented to him. He should recognize and check with the issuing doctor a prescription where a dangerous dosage of a drug is prescribed.</li> </ul> | <ul style="list-style-type: none"> <li>- In <i>Horton v Evans</i> [2006] EWHC 2808 (QB), where the doctor had mistakenly prescribed a dangerously high dosage, the court held that to discharge his duty of care the pharmacist should have questioned the correctness of the prescription with the doctor or the patient. In failing to do so, the pharmacist fell below the standards which could reasonably have been expected of a reasonably careful and competent pharmacist.</li> </ul> |
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### HOSPITALS AND HEALTH AUTHORITIES

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| <ul style="list-style-type: none"> <li>- Hospitals and health authorities have a duty of care to provide the services of medical professionals with sufficient skill and experience.</li> </ul> | <ul style="list-style-type: none"> <li>- In <i>Wilsher v Essex Area Health Authority</i> [1988] AC 1074 the courts held that a failure to provide doctors or services of a sufficient level of competence could be regarded as a breach of the duty of care.</li> </ul> |
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JURISDICTION	GENERAL THEME OF STATUTE	NOTES
	<ul style="list-style-type: none"> <li>- Hospitals or health authorities employing professionals are vicariously liable for any negligence shown by them in the course of their employment. It does not matter whether the individual responsible for a patient's injuries is a nurse, physiotherapist, senior consultant, or other employee provided that person is employed and acted within the scope of his employment.</li> </ul>	<ul style="list-style-type: none"> <li>- See, for example, <i>Roe v Ministry of Health</i> [1954] 2 Q.B. 66 where it was held that that an anaesthetist was the servant or agent of the hospital and the hospital were liable for his acts.</li> </ul>

### AMBULANCES

<ul style="list-style-type: none"> <li>- A duty of care only arises on acceptance of a 999 call.</li> <li>- If an ambulance service does not accept a 999 call, there is no duty and no liability.</li> </ul>	<ul style="list-style-type: none"> <li>- In <i>Kent v Griffiths &amp; Others</i> [2000] 2 All ER 474 an ambulance had been significantly delayed in collecting the claimant who was suffering a bronchial asthmatic attack, it was held that the acceptance of the call established a duty of care.</li> </ul>
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### ARMED FORCES

<ul style="list-style-type: none"> <li>- There is no duty of care between fellow soldiers engaged in battle conditions, as it would not be just and reasonable to impose a duty given the circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>- See <i>Mulcahy v Ministry of Defence</i> [1996] Q.B. 732 where it was held that public policy does require that, when two or more members of the armed forces of the Crown are engaged in the course of hostilities, one is under no duty of care in tort to another and that it could be highly detrimental to the conduct of military operations if each soldier had to be conscious that, even in the heat of battle, he owed such a duty to his comrade.</li> </ul>
<ul style="list-style-type: none"> <li>- This does not mean to say, however, that the armed forces have immunity for negligence outside battle conditions.</li> </ul>	<ul style="list-style-type: none"> <li>- See for example <i>Bici v Ministry of Defence</i> [2004] EWHC 786 where three soldiers shot and killed two men during a United Nations peacekeeping operation in Kosovo where there was an incident of disorder in the streets; it was held that they did not have combat immunity in these circumstances.</li> </ul>

### LOCAL AUTHORITIES OR PUBLIC BODIES

<ul style="list-style-type: none"> <li>- It is rare for a public authority to be found to have assumed responsibility to a Claimant to protect them from harm caused by a third party.</li> </ul>	<ul style="list-style-type: none"> <li>- In <i>X v Hounslow LBC</i> [2009] EWCA Civ 286, the Court of Appeal stated: "a public authority will not be held to have assumed a common law duty merely by doing what the statute requires or what it has power to do under a statute, at any rate unless the duty arises out of the relationship as a result as in Lord Hoffman's example of the doctor-patient relationship".</li> </ul>
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**FRONT COVER PHOTO** Onlookers stand next to an overturned passenger bus at the site of an accident in the southern Indian city of Chennai June 27, 2012. More than 30 passengers of a Metropolitan Transport Corporation bus were injured after the bus overturned and fell off a flyover, local media reported on Wednesday. REUTERS/Babu



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