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SHOULD EMERGENCY GOOD DEEDS GO UNPUNISHED?

AN ANALYSIS OF THE GOOD SAMARITAN STATUTES OF THE UNITED STATES

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I. Introduction

It is a well settled common law rule that ordinarily, “in the absence of some special relationship, no legal duty rests on a member of the general public to render services in the preservation of the person or property of another even if the means with which to do so are at hand.”³ We may have a moral obligation to help our fellow citizens, especially when we can to do with little effort and risk to ourselves, but in general, we have no legal obligation to do so. As commentators have noted, “[w]hile providing no general duty to aid, the Restatement of Torts. . . allows a person who voluntarily comes to the rescue of another to be held liable for any negligence in doing so.”⁴ Thus, the safest course of conduct for citizens who come across emergency situations

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³ J.D. LEE & BARRY A. LINDAHL, MODERN TORT LAW: LIABILITY AND LITIGATION § 3:81 (2d ed. June 2017).

⁴ David Weldon, *Forgotten Namesake: The Illinois Good Samaritan Act's Inexcusable Failure to Provide Immunity to Non-Medical Rescuers*, 43 J. MARSHALL L. REV. 1097, 1103 (2010). “One who, being under no duty to do so, takes charge of another

is to walk on by, rather than risk potential civil liability for rendering assistance that is later found to have been negligent. Good Samaritan statutes seek to “encourage people [with no duty] to aid others in need by granting statutory immunity” from negligent acts or omissions to rescuers who provide assistance to their fellow citizens in emergency situations.⁵

While details of the states’ and the federal Good Samaritan statutes vary considerably, the statutes can be generally categorized as follows:

- a. States that require bystanders to render assistance in emergencies;
- b. States that exempt only health care professionals who provide emergency assistance from civil liability;
- c. States that exempt anyone who provides emergency assistance; and
- d. Federal law, which exempts volunteers of nonprofit and government entities.

Exemplifying the variety of concerns in the first category, certain states –including Hawaii, Minnesota, Rhode Island, Vermont and Wisconsin⁶ – have departed from the common law rule and imposed a duty to rescue by enacting duty-to-rescue laws.

Hawaii makes it a petty misdemeanor for “[a]ny person at the scene of a crime who knows that a victim of the crime is suffering from serious physical harm . . . [not to] obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person.”⁷

who is helpless adequately to aid or protect himself is subject to liability to the other for any bodily harm caused to him by (a) the failure of the actor to exercise reasonable care to secure the safety of the other while within the actor's charge, or (b) the actor's discontinuing his aid or protection, if by so doing he leaves the other in a worse position than when the actor took charge of him.” *Id.* (citing RESTATEMENT (SECOND) OF TORTS § 324 (1965)).

⁵ *Id.* at 1105-06.

⁶ Jay Logan Rogers, Note, *Testing the Waters for an Arizona Duty-to-Rescue Law*, 56 ARIZ. L. REV. 897, 901-02 (2014).

⁷ HAW. REV. STAT. § 663-1.6(a) (1984).

Minnesota provides that failure to aid in certain circumstances is a petty misdemeanor;⁸ Rhode Island's statute is similar.⁹

Vermont imposes a \$100 fine for certain failures,¹⁰ while providing an exemption from civil liability (absent gross negligence) where no remuneration is involved.¹¹ The exemption does not apply to medical practitioners acting in the normal course of their practices.¹²

Wisconsin requires bystanders generally to assist or "summon" assistance where they witness a crime that exposes a victim to physical harm.¹³ Failure to do so is a Class C misdemeanor.¹⁴

These statutes, as well as those of the other states, are detailed in the Table below and analyzed further in Section III.

It is important for statutes that impose duties to assist to avoid crossing constitutional boundaries, such as imposing "involuntary servitude" in violation of the Thirteenth Amendment.¹⁵ In addition, such statutes should not impose standards of criminal behavior for the failures of those compelled to assist where the statutory requirements are unconstitutionally vague.¹⁶

II. Genesis of Good Samaritan Statutes

Every state today has adopted a Good Samaritan statute.¹⁷ The federal government has also adopted the Federal Volunteer Protection Act applying certain protections to volunteers employed by nonprofit organizations and governmental agencies.¹⁸ These laws vary widely in their application

⁸ MINN. STAT. § 604A.01(1) (2001).

⁹ R.I. GEN. LAWS § 11-56-1 (1984).

¹⁰ VT. STAT. ANN. tit. 12, § 519(c) (1968).

¹¹ *Id.* § 519(b).

¹² *Id.*

¹³ WIS. STAT. § 940.34(2)(a) (1995).

¹⁴ *Id.* § 940.34(1)(a).

¹⁵ U.S. CONST. amend. XIII, § 1.

¹⁶ *See* U.S. CONST. amends. V, XIV; *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926).

¹⁷ *See infra* Table; *see also infra* Section III for a comparative analysis of the differences in the states' and federal Good Samaritan statutes.

¹⁸ Volunteer Protection Act of 1997, 42 U.S.C. § 14503 (1997).

and contain explicit or implicit definitions of the types of individuals who qualify for protection, the extent of such protection, and the circumstances under which the shield against negligent harm caused by an attempt to rescue applies.

The first Good Samaritan statute was enacted in California in 1959.¹⁹ Indeed, “[t]he rest of the states soon followed suit, passing some version of a law shielding medical professionals (and, in most states, laypersons) from liability for ordinary negligence committed in the course of a voluntary, gratuitous, and good-faith attempt to assist someone in an emergency.”²⁰ Since then, the rationale offered by the courts in support of the Good Samaritan statutes has been its purpose “to encourage people to provide emergency assistance by allaying the fear of suit in the event the rescue goes badly.”²¹ Although most statutes do not currently limit the protection of Good Samaritan statutes to physicians, it is telling that these laws “originated with concerns about and among physicians.”²² These concerns existed despite the fact that no physician had been held liable for rendering gratuitous care in an emergency in any reported case “prior to 1959.”²³

Therefore, it is appropriate to ask: should the purpose of Good Samaritan statutes be solely to encourage people to come to the aid of others in emergency situations, or is it also proper to extend such statutory protection to medical personnel, hospitals, municipalities, and other persons, the scope of whose responsibilities has traditionally been to render emergency aid in the first place? If such protection is appropriate, has the discussion and debate among scholars thus far missed a

¹⁹ Dov Waisman, *Negligence, Responsibility, and the Clumsy Samaritan: Is there a Fairness Rationale for the Good Samaritan Immunity?*, 29 GA. ST. U. L. REV. 609, 627 (2013).

²⁰ *Id.*

²¹ *Id.* at 627-628.

²² *Id.* at 628.

²³ *Id.* at 629-30.

critical point regarding the wisdom, effectiveness, and fairness of these statutes? The trend regarding these issues will be addressed after the statutes themselves are explored and analyzed.

Table: Summary Statutory Review:

The following Table summarizes the present statutory requirements of all fifty states, the District of Columbia, and a major federal statute.

State	Provisions of Good Samaritan Statute
Alabama	<p>Exempts enumerated healthcare workers, firefighters, police officers, and public education employees from liability for providing “first aid or emergency care at the scene of an accident, casualty, or disaster to a person injured therein.”²⁴</p> <p>Also exempts military helicopter crews who provide emergency medical services,²⁵ physicians who, without compensation, advise medical crews on the scene of an accident via a voice linkup,²⁶ qualified mine rescue workers,²⁷ anyone using defibrillators in good faith and without compensation, absent gross negligence,²⁸ and licensed individuals and those working under them, providing without compensation, services under a declaration of emergency, “if the individual acts as a reasonably prudent person would have acted under the same or similar circumstances.”²⁹ Finally, anyone who renders emergency care in good faith and without compensation at the scene of an accident or emergency to a victim is exempt for liability for any act or omission, “if the individual acts as a reasonably prudent person would have acted under the same or similar circumstances.”³⁰ Veterinarians are also exempt for liability under a separate statute for services rendered in an emergency and without compensation to both injured animals and persons.³¹</p>
Alaska	<p>Any person who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.³² Volunteer members of emergency services organizations are not liable for</p>

²⁴ ALA. CODE § 6-5-332(a) (2017).

²⁵ *Id.* § 6-5-332(b).

²⁶ *Id.* § 6-5-332(c).

²⁷ *Id.* § 6-5-332(d).

²⁸ *Id.* § 6-5-332(e).

²⁹ *Id.* § 6-5-332(f).

³⁰ *Id.* § 6-5-332(g).

³¹ *Id.* § 34-29-90 (2017).

³² ALASKA STAT. § 09.65.090(a) (2014).

	<p>civil damages for injury to a person that results from an act or omission in providing first aid, search, rescue, or other emergency services to the person.³³ Only persons authorized to administer the following advanced life support techniques are exempt from liability: manual electric cardiac defibrillation; administration of antiarrhythmic agents; intravenous therapy; intramuscular therapy; and use of endotracheal intubation devices.³⁴ The exemption from liability is not available where gross negligence or willful acts cause injury.³⁵</p>
Arizona	<p>A licensed health care provider and any other person who renders emergency care at a public gathering or at the scene of an emergency occurrence gratuitously and in good faith is not be liable for any civil or other damages that result from any act or omission by such person absent gross negligence.³⁶</p>
Arkansas	<p>Licensed healthcare professionals³⁷ who render emergency care in good faith and without compensation are not liable for damages or omissions absent willful conduct or gross negligence.³⁸ Non-medical care professionals who render emergency assistance in good faith to someone whose life, health or safety are perceived to be imminently threatened are not liable for damages or omissions absent willful misconduct or gross negligence.³⁹</p>
California	<p>Licensed medical professionals who in good faith render emergency care at the scene of an emergency are not liable for any civil damages as a result of any acts or omissions by such persons in rendering the emergency care with the exception of damages caused by willful acts or omissions.⁴⁰ Medical, law enforcement and emergency personnel are protected from liability when rendering medical and non-medical assistance without compensation in emergency situations.⁴¹</p>
Colorado	<p>Persons licensed as a physician and surgeon, and any other person who in good faith renders emergency care or emergency assistance without compensation at the place of an emergency or accident is not liable for any civil damages for acts or omissions made in good faith as a result of the rendering of such emergency care or emergency assistance during the emergency, absent gross negligence or willful and wanton acts. (This provision does not apply top persons who render such emergency care or emergency assistance to a patient they are otherwise</p>

³³ *Id.* § 09.65.090(b).

³⁴ *Id.* § 09.65.090(c).

³⁵ *Id.* § 09.65.090(d).

³⁶ ARIZ. REV. STAT. ANN. § 32-1471 (2015).

³⁷ Defined as “a licensed physician, chiropractic physician, dentist, optometric physician, podiatric physician, and any other licensed health care professional.” ARK. CODE ANN. § 17-95-101(d) (2016).

³⁸ *Id.* § 17-95-101(a).

³⁹ *Id.* § 17-95-101(b).

⁴⁰ CAL. BUS. & PROF. CODE § 2395 (West 2015).

⁴¹ CAL. HEALTH & SAFETY CODE § 1799.102(a) (West 2009).

	<p>obligated to cover.)⁴² The same exemption from civil liability applies to crisis hotline volunteers who give advice under emergency or crisis situations.⁴³ Employers whose employees render emergency assistance under circumstances where they are exempt from liability are also exempt from liability for any harm done by the employee's acts or omissions.⁴⁴</p>
Connecticut	<p>Licensed doctors and dentists (in the state or in any other state), licensed registered nurses, licensed practical nurses, medical technicians and any person operating a cardiopulmonary resuscitator or a person trained in cardiopulmonary resuscitation in accordance with the guidelines set forth by the American Red Cross or American Heart Association, and persons operating an automatic external defibrillator (voluntarily and gratuitously and other than in the ordinary course of such person's employment) who renders emergency medical or professional assistance to a person in need thereof is not liable to such person assisted for civil damages for any personal injuries which result from acts or omissions which may constitute ordinary negligence.⁴⁵</p> <p>Paid and volunteer firefighters, police officers, teachers and other school personnel on the school grounds or in the school building or at a school function, members of a ski patrol, lifeguards, conservation officers, patrol officers, special police officers of the Department of Energy and Environmental Protection, and emergency medical service personnel, who have completed a course in first aid offered by an approved agency who renders emergency first aid to a person in need thereof, shall not be liable to persons assisted for civil damages for any personal injuries which result from acts or omissions which may constitute ordinary negligence by such responder who renders emergency first aid.⁴⁶</p> <p>Any person who has completed a course in first aid offered by an approved organization "or has been trained in the use of a cartridge injector by a licensed physician, physician assistant, advanced practice registered nurse or registered nurse, and who, voluntarily and gratuitously and other than in the ordinary course of such person's employment or practice, renders emergency assistance by using a cartridge injector on another person in need thereof, or any person who is an identified staff member of a before or after school program, day camp or day care facility . . . who renders emergency assistance by using a cartridge injector on another person in need thereof, [is not] liable to such person assisted for civil damages for any personal injuries which result from acts or omissions by such person in using a cartridge injector, which may constitute ordinary negligence."⁴⁷</p>

⁴² COLO. REV. STAT. § 13-21-108(1) (2016).

⁴³ *Id.* § 13-21-108(4)(a).

⁴⁴ *Id.* § 13-21-108(5).

⁴⁵ CONN. GEN. STAT. § 52-557b(a) (2017).

⁴⁶ *Id.* § 52-557b(b).

⁴⁷ *Id.* § 52-557b(h).

Delaware	<p>“[A]ny person who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, or any person in obvious physical distress or discomfort shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance, unless it is established that such injuries or such death were caused willfully, wantonly or recklessly or by gross negligence on the part of such person. This section shall apply to members or employees of nonprofit volunteer or governmental ambulance, rescue or emergency units, whether or not a user or service fee may be charged by the nonprofit unit or the governmental entity and whether or not the members or employees receive salaries or other compensation from the nonprofit unit or the governmental entity. This section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic.”⁴⁸</p>
District of Columbia	<p>“Any person who in good faith renders emergency medical care or assistance to an injured person at the scene of an accident or other emergency outside of a hospital, without the expectation of receiving or intending to seek compensation from such injured person for such service, shall not be liable in civil damages for any act or omission, not constituting gross negligence, in the course of rendering such care or assistance.”⁴⁹</p>
Florida	<p>“Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency . . . or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.”⁵⁰</p> <p>“Any person, including licensed veterinarians, who gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency on or adjacent to a roadway is also not liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person</p>

⁴⁸ DEL. CODE ANN. tit. 16, § 6801(a) (2016).

⁴⁹ D.C. CODE § 7-401(a) (2015).

⁵⁰ FLA. STAT. § 768.13(2)(a) (2017).

	acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.” ⁵¹
Georgia	<p>Any person, including any person licensed to practice medicine and services ancillary thereto, who in good faith renders emergency care at the scene of an accident or emergency to the victim or victims thereof without charge is not liable for any civil damages as a result of any act or omission by such person in rendering emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person.⁵² (“Emergency care” includes but is not limited to the rescue or attempted rescue of an incapacitated or endangered individual from a locked motor vehicle.)⁵³</p> <p>A licensed health care provider who voluntarily and without the expectation or receipt of compensation provides professional services, within the scope of such health care provider's licensure, for and at the request of a hospital, public school, nonprofit organization, or an agency of the state or one of its political subdivisions or provides such professional services to a person at the request of such an organization, which organization does not expect or receive compensation with respect to such services from the recipient of such services is exempt from liability absent gross negligence or willful or wanton conduct.⁵⁴ Licensed hospitals, public schools and nonprofit organizations which request volunteer services from licensed healthcare providers who provide such services without compensation are also not liable for damages for injuries or death caused an act or omission in the rendering of such services.⁵⁵</p> <p>Individuals and organizations who provide assistance without compensation during a state of emergency or disaster declaration by the governor is exempt from civil liability to any natural person injured by any act or omission during the rendering of such assistance in good faith absent willful or wanton negligence or misconduct.⁵⁶</p> <p>Persons who gratuitously and in good faith use automated external defibrillators in emergency circumstances without the objection of the person to whom care is rendered are exempt from civil liability for any resulting injuries from acts or omissions from such use absent wanton or willful misconduct (But the exemption from liability does not apply to a person acting within the scope of a licensed profession if such person acts with gross negligence)⁵⁷</p>

⁵¹ *Id.* § 768.13(3).

⁵² GA. CODE ANN. § 51-1-29 (2015).

⁵³ *Id.*

⁵⁴ GA. CODE ANN. § 51-1-29.1(a)(1) (2007).

⁵⁵ GA. CODE ANN. § 51-1-29.1(a)(2) (2007).

⁵⁶ GA. CODE ANN. § 51-1-29.2 (2008).

⁵⁷ GA. CODE ANN. § 51-1-29.3(a) (2009).

	<p>Free health clinics, their employees and agents are exempt from civil liability for harm or death caused to patients by simple negligence.⁵⁸</p> <p>A law enforcement officer is not liable at law for any action or actions done while performing any duty at the scene of an emergency except for gross negligence, willful or wanton misconduct, or malfeasance.⁵⁹</p> <p>Any person who renders emergency aid in good faith and without charge to persons who are choking is not be liable for any civil damages for any act or omission in rendering such emergency aid or as a result of any act or failure to act to provide or arrange for further treatment or care for such persons.⁶⁰</p> <p>Any person who gratuitously and in good faith administers emergency treatment to a sick or injured animal at the scene of an accident or emergency shall not be liable to the owner of such animal in any civil action for damages absent gross negligence.⁶¹</p>
Hawaii	<p>Except in cases of willful misconduct, the State, any county, or any volunteer emergency medical disaster response personnel engaged in the emergency response to a mass casualty event or disaster condition shall not be liable for the death of or injury to persons, or for damage to property, as a result of any act or omission in the course of rendering professional medical care under a mass casualty event or disaster condition.⁶²</p> <p>It is a petty felony for a person at the scene of a crime who knows that a victim of the crime is suffering from serious physical harm not to obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person.⁶³ The statute exempts from civil liability any person (other than physicians in the regular course of their practice) who gratuitously provides reasonable assistance absent gross negligence or wanton acts or omissions.⁶⁴</p> <p>Although failure to comply with the requirement to render assistance is a petty felony, failure to comply cannot be the basis of a suit for civil damages.⁶⁵</p>
Idaho	<p>No action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, who in good faith, being at, or stopping at the scene of an accident, offers and administers first aid or medical attention to any person or persons injured in such accident unless it</p>

⁵⁸ GA. CODE ANN. § 51-1-29.4 (b)(1) (2004).

⁵⁹ GA. CODE ANN. § 35-1-7 (2010).

⁶⁰ GA. CODE ANN. § 26-2-374 (2010).

⁶¹ GA. CODE ANN. § 43-50-80 (2010).

⁶² HAW. REV. STAT. tit. 19, § 321-23.3(d) (2015).

⁶³ HAW. REV. STAT. tit. 36, § 663-1.6(a) .

⁶⁴ HAW. REV. STAT. tit. 36, § 663-1.6(b).

⁶⁵ *Id.*

	<p>can be shown that the person or persons offering or administering first aid, is guilty of gross negligence in the care or treatment of said injured person or persons or has treated them in a grossly negligent manner. The immunity ceases upon "delivery of the injured person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said injured person or persons, or upon delivery of said injured person or persons into custody of an ambulance attendant."⁶⁶ Volunteer ambulance attendants are also exempt from liability absent gross negligence.⁶⁷</p>
Illinois	<p>Any person licensed under the Medical Practice Act of 1987 or "any person licensed to practice the treatment of human ailments in any other state or territory of the United States who, in good faith, provides emergency care without fee to a person", is not liable for injuries⁶⁸ caused by his/her acts or omissions absent willful or wanton misconduct.</p> <p>Any person who has successfully completed CPR training in accordance with the standards of the American Red Cross or the American Heart Association and who "in good faith, not for compensation, provides emergency cardiopulmonary resuscitation in accordance with his or her training to a person who is an apparent victim of acute cardiopulmonary insufficiency [is not] liable for civil damages, unless the acts or omissions constitute willful and wanton misconduct."⁶⁹</p> <p>Any person who in good faith removes or attempts to remove food in an emergency occurring at a food-service establishment as defined in the Choke-Saving Methods Act will not be liable for any civil damages as a result of any acts or omissions by that person in rendering emergency assistance.⁷⁰</p> <p>"Law enforcement officers, fire fighters, Emergency Medical Technicians (EMTs) and any . . . "first responder" as defined in Section 3.60 of the Emergency Medical Services (EMS) Systems Act, who in good faith provides emergency care . . . without fee or compensation to any person shall not be liable for harm resulting from acts or omissions in providing the care absent willful and wanton acts or omissions."⁷¹</p> <p>Also exempt from liability other than for willful or wanton misconduct are veterinarians who render gratuitous assistance to humans under emergency</p>

⁶⁶ IDAHO CODE § 5-330 (2017).

⁶⁷ *Id.* § 5-331.

⁶⁸ 745 ILL. COMP. STAT. 49/25 (2018).

⁶⁹ *Id.* 49/10.

⁷⁰ *Id.* 49/65.

⁷¹ *Id.* 49/70.

	<p>circumstances at the scene of an accident or catastrophe;⁷² respiratory care practitioners;⁷³ podiatrists;⁷⁴ physician's assistants;⁷⁵ employers who provide emergency care to employees and others employed on a work project;⁷⁶ professional engineers, architects, land surveyors, or structural engineers providing emergency assistance in response to disasters or catastrophic events;⁷⁷ All persons providing good faith, gratuitous care at the scene of an emergency that necessitates the evacuation of a building;⁷⁸ all persons certified in first aid by the American Red Cross, the American Heart Association, or the National Safety;⁷⁹ physical therapists;⁸⁰ optometrists;⁸¹ nurses;⁸² dentists;⁸³ persons providing telephone instructions as part of a system established under the Emergency Telephone System Act to others in emergency situations;⁸⁴</p>
Indiana	<p>Persons who come upon the scene of an emergency or accident and, in good faith, gratuitously render emergency care at the scene of the emergency or accident are immune from civil liability for any personal injury that results from any act or omission by the person in rendering the emergency care or any act or failure to act to provide or arrange for further medical treatment or care for the injured person absent acts or omissions amounting to gross negligence or willful misconduct.⁸⁵</p>
Iowa	<p>A person, who in good faith and without compensation, renders emergency care or assistance in an accident or emergency situation is not be liable for any civil damages 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 at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct.⁸⁶</p>
Kansas	<p>"Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than</p>

⁷² *Id.* 49/60.

⁷³ *Id.* 49/55.

⁷⁴ 745 ILL. COMP. STAT. 49/50 (2018).

⁷⁵ *Id.* 49/46.

⁷⁶ *Id.* 49/75.

⁷⁷ *Id.* 49/72.

⁷⁸ *Id.* 49/71.

⁷⁹ *Id.* 49/67.

⁸⁰ *Id.* 49/45.

⁸¹ *Id.* 49/42.

⁸² *Id.* 49/35. *See also id.* 49/34, 49/40.

⁸³ *Id.* 49/15.

⁸⁴ *Id.* 49/5.

⁸⁵ IND. CODE ANN. § 34-30-12-1(b) (2014).

⁸⁶ IOWA CODE § 613.17(1) (2013).

	<p>damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care."⁸⁷</p> <p>"Health care provider" is defined as 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, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physician assistants of the American board of medical examiners, any licensed athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate, any person who holds a valid certificate for the successful completion of an approved course in first aid, and any person engaged in a postgraduate training program approved by the state board of healing arts.⁸⁸</p>
Kentucky	<p>Licensed physicians, registered or practical nurses, certified emergency medical technicians, persons certified by the American Heart Association or the American Red Cross to perform cardiopulmonary resuscitation, employees of any board of education who have completed a course in first aid and who maintain current certification therein "in accordance with the standards set forth by the American Red Cross" are not liable "in civil damages for administering gratuitous emergency care or treatment at the scene of an emergency 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, unless such acts constitute willful or wanton misconduct."⁸⁹</p>
Louisiana	<p>A licensed physician, surgeon, or physician assistant or his limited liability company, or a licensed nurse "who in good faith gratuitously renders emergency care or services at the scene of an emergency, to a person in need thereof shall not be liable for any civil damages as a result of any act or omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in said emergency, unless the damage or injury was caused by willful or wanton misconduct or gross negligence."⁹⁰</p> <p>A licensed veterinarian who in good faith gratuitously renders emergency care or services or assistance at the scene of an emergency to an animal or animals in need thereof, is not liable for any civil damages as a result of any act or omission by such person in rendering the care or services or assistance, or as a</p>

⁸⁷ KAN. STAT. ANN. § 65-2891(a) (2013).

⁸⁸ *Id.* § 65-2891(e).

⁸⁹ KY. REV. STAT. ANN. § 411.148(1) (West 2014).

⁹⁰ LA. STAT. ANN. § 37:1731(A)(1) (2015).

	<p>result of any act or failure to act to provide or arrange for further veterinary medical treatment or care for the animal involved in the said emergency.⁹¹</p> <p>A licensed dentist who in good faith gratuitously renders emergency care or services at the scene of an emergency to a person or persons in need thereof is not liable for any civil damages as a result of any act or omission by such person in rendering the care or services or as a result of any act or failure to act to provide or arrange for further dental care or treatment or care for the person involved in the emergency.⁹²</p> <p>A licensed emergency medical technician who in good faith gratuitously renders emergency care or services at the scene of an emergency to a person or persons in need thereof shall not be liable for any civil damages as a result of any act or omission in rendering the care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in the emergency.⁹³</p>
Maine	<p>Any person who voluntarily and gratuitously renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, shall not be liable for damages for injuries alleged to have been sustained by such person nor for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance, unless it is established that such injuries or such death were caused willfully, wantonly or recklessly or by gross negligence on the part of such person.⁹⁴</p>
Maryland	<p>Persons described below are not civilly liable for any act or omission in giving any assistance or medical care absent gross negligence when providing gratuitous assistance at the scene of an emergency, in transit to a medical facility or through communications with personnel providing emergency assistance:⁹⁵</p> <ol style="list-style-type: none"> 1. Individuals licensed by this State to provide medical care;⁹⁶ 2. members of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency, the National Ski Patrol System, corporate fire departments responding to a call outside of its corporate premises, are exempt from liability if the member has completed an American Red Cross course in advanced first aid and has a current card showing that status; has completed an equivalent of an American Red Cross course in advanced first aid, as

⁹¹ *Id.* § 37:1731(C).

⁹² *Id.* § 37:1731(D).

⁹³ *Id.* § 37:1731(E).

⁹⁴ ME. STAT. tit. 14, § 164 (2017).

⁹⁵ MD. CODE ANN., CTS. & JUD. PROC. § 5-603(a) (West 2013).

⁹⁶ *Id.* at § 5-603(b)(1).

	<p>determined by the Secretary of Health and Mental Hygiene; or Is certified or licensed by this State as an emergency medical services provider;⁹⁷</p> <p>3. members of volunteer fire departments or ambulance and rescue squads whose members have immunity;⁹⁸</p> <p>An individual who is not otherwise covered is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if the assistance or aid is provided in a reasonably prudent manner, without a fee or other compensation and the individual relinquishes care of the victim when someone who is licensed or certified by this State to provide medical care or services becomes available to take responsibility.⁹⁹</p>
Massachusetts	<p>No registered physician, physician assistant, or nurse registered or licensed in the state or resident in another state, in the District of Columbia or in a province of Canada, and duly registered therein, who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than in the ordinary course of his/her practice, shall be liable in a suit for damages as a result of acts or omissions.¹⁰⁰</p> <p>Licensed veterinarians registered in any state or in the District of Columbia are likewise exempt from liability arising from acts or omissions in rendering emergency, gratuitous care to animals.¹⁰¹</p> <p>Any person, who, in good faith, attempts to render emergency care including, but not limited to, cardiopulmonary resuscitation or defibrillation, and does so without compensation, is not be liable for acts or omissions absent gross negligence or willful or wanton misconduct.¹⁰²</p>
Michigan	<p>A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care without compensation at the scene of an emergency, if a physician-patient relationship, physician's assistant-patient relationship, registered professional nurse-patient relationship, or licensed practical nurse-patient relationship did not exist before the emergency, is not liable for civil damages as a result of acts or omissions in rendering assistance absent gross negligence or willful and wanton misconduct.¹⁰³</p>

⁹⁷ *Id.* at § 5-603(b)(2).

⁹⁸ *Id.* at § 5-603(b)(3).

⁹⁹ *Id.* at § 5-603(c).

¹⁰⁰ MASS. GEN. LAWS ch. 112, § 12B (2016).

¹⁰¹ *Id.* at § 58A.

¹⁰² *Id.* at § 12V.

¹⁰³ MICH. COMP. LAWS § 691.1501(1) (2015).

	A restaurant or an employee or owner of a restaurant shall not be liable for civil damages for good faith attempts to remove, removing, or assisting in the removal or attempted removal of food which is lodged in an individual's throat, unless the employee or owner was grossly negligent in his or her actions. ¹⁰⁴
Minnesota	<p>Minnesota imposes an affirmative duty on persons at the scene of an emergency who knows that another person has been exposed to or suffered grave physical harm to give reasonable assistance to the extent that the person can do so without danger or peril to self or others.¹⁰⁵ Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel, and a person who violates this subdivision is guilty of a petty misdemeanor.¹⁰⁶</p> <p>“A person who, without compensation or the expectation of compensation, renders emergency care, advice, or assistance at the scene of an emergency or during transit to a location where professional medical care can be rendered, is not liable for any civil damages as a result of acts or omissions by that person in rendering the emergency care, advice, or assistance, unless the person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance.”¹⁰⁷</p>
Mississippi	<p>Drivers of vehicles involved in automobile accidents that result in serious injury are required to render reasonable assistance to injured persons, including transportation to (or arranging transportation) to a medical facility and are exempt from liability for harm caused while exercising reasonable care.¹⁰⁸</p> <p>“No duly licensed, practicing physician, physician assistant, dentist, registered nurse, licensed practical nurse, certified registered emergency medical technician, or any other person who, 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 point where medical assistance can be reasonably expected, shall be liable for any civil damages to the injured person as a result of any acts committed in good faith and in the exercise of reasonable care or omissions in good faith and in the exercise of reasonable care by such persons in rendering the emergency care to the injured person.”¹⁰⁹</p>
Missouri	“Any physician or surgeon, registered professional nurse or licensed practical nurse licensed to practice in this state . . . or licensed to practice under the equivalent laws of any other state and any person licensed as a mobile emergency medical technician . . . may” render emergency treatment in good

¹⁰⁴ *Id.* at § 691.1522.

¹⁰⁵ MINN. STAT. § 604A.01 (2016).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* § 604A.01(2)(a).

¹⁰⁸ MISS. CODE ANN. § 63-3-405 (2014).

¹⁰⁹ *Id.* § 73-25-37(1).

	<p>faith and without compensation “at the scene of an emergency or accident” without liability “for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.”¹¹⁰</p> <p>Other individuals “trained to provide first aid in a standard recognized training program may, without compensation, render emergency care or assistance to the level for which he or she has been trained, at the scene of an emergency or accident, and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.”¹¹¹</p> <p>“Any mental health professional . . . or qualified counselor . . . or any practicing medical, osteopathic, or chiropractic physician, or certified nurse practitioner, or physicians' assistant may in good faith render suicide prevention interventions at the scene of a threatened suicide and shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.”¹¹²</p> <p>“Any other person may, without compensation, render suicide prevention interventions at the scene of a threatened suicide and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.”¹¹³</p>
Montana	<p>“Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by the person in rendering the emergency care or assistance.”¹¹⁴</p> <p>“Person[s] properly trained under the laws of this state who operate[] an ambulance to and from the scene of an emergency or render[] 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</p>

¹¹⁰ MO. REV. STAT. § 537.037.1(1) (2014).

¹¹¹ *Id.* § 537.037.2.

¹¹² *Id.* § 537.037.3.

¹¹³ *Id.* § 537.037.4.

¹¹⁴ MONT. CODE ANN. § 27-1-714(1) (2013).

	annual income or \$ 3,000 a calendar year, whichever is greater” are also exempt from liability other than for gross negligence or willful or wanton acts. ¹¹⁵
Nebraska	<p>“No person who renders emergency care at the scene of an accident or other emergency gratuitously, shall be held liable for any civil damages as a result of any act or omission by such person 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.”¹¹⁶</p> <p>Members “of a volunteer fire department or of a volunteer first-aid, rescue, or emergency squad which provides emergency public first-aid and rescue services” are not liable “in any civil action to respond in damages as a result of [their] acts of commission or omission arising out of and in the course of [their] rendering in good faith any such services” (other than “the operation of any motor vehicle in connection with such services”) absent damage caused by “willful or wanton act[s] of commission or omission.”¹¹⁷</p> <p>Acts “of commission or omission by 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” will not “impose any liability on any other person” but the out-of-hospital emergency care provider is not exempt from personal liability, if any.¹¹⁸</p>
Nevada	<p>“Any person in this State who renders emergency care or assistance in an emergency, gratuitously and in good faith, except for a person who is performing community service as a result of disciplinary action . . . is not liable for any civil damages as a result of any act or omission . . . in rendering the emergency care or assistance or as a result of any act or failure to act” absent gross negligence.¹¹⁹</p> <p>Ambulance drivers or attendants “on an ambulance operated by a volunteer service or as a volunteer driver or attendant on an ambulance operated by a political subdivision of this State, or owned by the Federal Government and operated by a contractor of the Federal Government, and who in good faith render[] emergency care or assistance to any injured or ill person . . . [are] not liable for any civil damages as a result of any act or omission” absent gross negligence.¹²⁰</p>

¹¹⁵ *Id.* § 27-1-714(2).

¹¹⁶ NEB. REV. STAT. § 25-21,186 (2014).

¹¹⁷ *Id.* § 35-107.

¹¹⁸ *Id.* § 38-1234.

¹¹⁹ NEV. REV. STAT. § 41.500(1) (2014).

¹²⁰ *Id.* § 41.500(2).

	<p>Similar protection is offered to persons who offer gratuitous emergency services as members of search and rescue organizations “under the direct supervision of any county sheriff,”¹²¹ to volunteer fire fighters,¹²² and to persons who perform CPR after completing approved courses,¹²³ and persons who in good faith use external defibrillators in emergency situations absent gross negligence.¹²⁴</p> <p>“Any person licensed [in the State] and any person who holds an equivalent license issued by another state, who renders emergency care or assistance, including, without limitation, emergency obstetrical care or assistance, in an emergency, gratuitously and in good faith, is not liable for any civil damages as a result of any act or omission . . . in rendering the emergency care or assistance . . .” absent gross negligence.¹²⁵ However, a physician, physician assistant or nurse is not excused “from liability for damages resulting from that person's acts or omissions which occur in a licensed medical facility relative to any person with whom there is a preexisting relationship as a patient.”¹²⁶ Protection extends to gratuitous emergency care by retired and part time licensed medical practitioners absent gross negligence, recklessness or willful or wanton conduct.¹²⁷</p>
New Hampshire	<p>Any person who in good faith and without compensation “renders emergency care at the [scene] of an emergency or to a victim of a crime or delinquent act or while in transit in an ambulance or rescue vehicle, to a person who is in urgent need of care as a result of the emergency or crime or a delinquent act” is not liable for civil damages for acts or omissions related to the emergency care absent willful or wanton negligence.¹²⁸ “Any person rendering emergency care shall have the duty to place the injured person under the care of a physician, nurse, or other person qualified to care for such person as soon as possible and to obey the instructions of such qualified person.”¹²⁹</p>
New Jersey	<p>“Any individual, including a person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or licensed to render services ancillary thereto, or any person who is a volunteer member of a duly incorporated first aid and emergency or volunteer ambulance or rescue squad association, who in good faith renders emergency care at the scene of an accident or emergency to the victim or victims thereof, or while transporting the victim or victims thereof to a hospital or other facility where treatment or care is to be rendered, shall not</p>

¹²¹ *Id.* § 41.500(4).

¹²² *Id.* § 41.500(5).

¹²³ *Id.* § 41.500(6).

¹²⁴ *Id.* § 41.500(8).

¹²⁵ *Id.* § 41.505(1).

¹²⁶ *Id.*

¹²⁷ *Id.* § 41.505(2).

¹²⁸ N.H. REV. STAT. ANN. § 508:12(I) (2015).

¹²⁹ *Id.*

	be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.” ¹³⁰
New Mexico	“[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 . . . [is not] liable for any civil damages as a result of any action or omission by that person in providing that care or assistance [absent] gross negligence.” ¹³¹ The exemption from liability does not apply when “emergency care or assistance . . . is 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.” ¹³²
New York	<p>“[A]ny 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, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such person.”¹³³</p> <p>“[A] licensed physician, dentist, nurse, physical therapist or registered physician's assistant [, however, is liable] for damages for injuries or death caused by an act or omission on the part of such person while rendering professional services in the normal and ordinary course of his or her practice.”¹³⁴</p> <p>“[A]ny licensed dentist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such dentist.”¹³⁵ Similar exemptions are made for gratuitous services rendered</p>

¹³⁰ N.J. REV. STAT. § 2A:62A-1 (2013).

¹³¹ N.M. STAT. ANN. § 24-10-3 (2016).

¹³² *Id.*

¹³³ N.Y. PUB. HEALTH § 3000-a (1) (Consol. 2015).

¹³⁴ *Id.*

¹³⁵ N.Y. EDUC. § 6611(6) (Consol. 2015).

	under similar emergency circumstances by licensed physicians, ¹³⁶ licensed registered professional nurses or licensed practical nurses, ¹³⁷ and licensed physical therapists. ¹³⁸
North Carolina	<p>“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, shall not be liable in civil damages for any acts or omissions relating to the services rendered, unless the acts or omissions amount to wanton conduct or intentional wrongdoing.”¹³⁹</p> <p>“Any person . . . who voluntarily and without expectation of compensation renders first aid or emergency health care treatment to a person (including the use of defibrillators) who is unconscious, ill or injured . . .” is not liable for damages that result from the acts or omissions relating to the emergency care absent gross negligence, wanton conduct or willful wrongdoing when:</p> <p>“(1) [T]he reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and</p> <p>(2) [T]he necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the person”¹⁴⁰ The exemption from liability does not apply to injury or death caused by an act or omission on the part of a person rendering health care services in the normal and ordinary course of his business or profession.¹⁴¹</p>
North Dakota	<p>“No person, or the person's employer, . . . who renders aid or assistance necessary or helpful in the circumstances to other persons who have been injured or are ill as the result of an accident or illness, or any mechanical, external or organic trauma, may be named as a defendant or held liable in any personal injury civil action by any party in this state for acts or omissions arising out of a situation in which emergency aid or assistance is rendered, unless it is plainly alleged in the complaint and later proven that such person's acts or omissions constituted intentional misconduct or gross negligence.”¹⁴²</p> <p>“Any person who in good faith and without compensation provides emergency care or emergency treatment by using an automated external defibrillator is immune from civil liability for any personal injury resulting from the emergency care or emergency treatment and for any act or failure to act in providing or arranging further medical treatment [absent gross negligence or willful or wanton misconduct].”¹⁴³</p>

¹³⁶ See *id.* § 6527(2) (Consol. 2014).

¹³⁷ See *id.* § 6909(1).

¹³⁸ See *id.* § 6737.

¹³⁹ N.C. GEN. STAT. § 20-166(d) (2014).

¹⁴⁰ *Id.* § 90-21.14(a).

¹⁴¹ See *id.* § 90-21.14(b).

¹⁴² N.D. CENT. CODE § 32-03.1-02 (2014).

¹⁴³ *Id.* § 32-03.1-02.3(2).

	<p>“Any fireman, policeman, or peace officer who in good faith renders emergency care at the scene of an emergency in this state shall be expected to render only such emergency care as in such person's judgment is at the time indicated and shall not be liable for any civil damages for acts or omissions done in the person's good-faith judgment except for damages occasioned by wanton acts of misconduct or negligence in rendering such emergency care.”¹⁴⁴</p>
Ohio	<p>“No person shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency [without compensation or the expectation or compensation] outside of a hospital, doctor's office, or other place having proper medical equipment, for acts performed at the scene of such emergency, unless such acts constitute willful or wanton misconduct.”¹⁴⁵</p> <p>“[N]o person shall be held liable in civil damages for injury, death, or loss to person or property, or held criminally liable, for performing automated external defibrillation in good faith, regardless of whether the person has obtained appropriate training on how to perform automated external defibrillation or successfully completed a course in cardiopulmonary resuscitation.”¹⁴⁶</p>
Oklahoma	<p>“Where no prior contractual relationship exists, any person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or licensed to render services ancillary thereto, including 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, renders or attempts to render emergency care to an injured person or any person who is in need of immediate medical aid, wherever required, shall not be liable for damages as a result of any acts or omissions except for committing gross negligence or willful or wanton wrongs in rendering the emergency care.”¹⁴⁷</p> <p>“Where no prior contractual relationship exists, any person who in good faith renders or attempts to render emergency care consisting of artificial respiration, restoration of breathing, or preventing or retarding the loss of blood, or aiding or restoring heart action or circulation of blood to the victim or victims of an accident or emergency, wherever required, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.”¹⁴⁸</p> <p>“Where no prior contractual relationship exists, any person licensed to perform surgery or dentistry in this state who in good faith renders emergency care requiring the performance of an operation or other form of surgery upon any</p>

¹⁴⁴ *Id.* § 32-03-40.

¹⁴⁵ OHIO REV. CODE ANN. § 2305.23 (2015).

¹⁴⁶ *Id.* § 2305.235(d).

¹⁴⁷ OKLA. STAT. tit. 76, § 5(a)(1) (2014).

¹⁴⁸ *Id.* § 5(a)(2).

	<p>individual who was the victim of an accidental act shall not be liable for any civil damages or subject to criminal prosecution as the result of nonconsenting whereby such person renders or attempts to render the emergency surgery or operation voluntarily and without compensation, wherever required, except for gross negligence or willful or wanton wrongs committed in rendering the care; provided, however, that the exemption granted by this subsection shall not attach if the victim is an adult who is conscious and capable of giving or refusing his consent; or if the victim's spouse, or parent, or guardian in the 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 to perform surgery in this state.”¹⁴⁹</p> <p>“Where no contractual relationship exists, any person, or any member of his immediate family or household, who has been approved by the local P.T.A. or other local sponsoring agency or organization, who has registered with the local municipal police chief or the county sheriff, and who has been granted appropriate authorization by either the police chief or the county sheriff to indicate by sign in the window of his home or in any other tangible or identifiable manner that he will extend aid and refuge to persons on the streets in apparent danger, or in need of aid, by inviting those persons into the person's home, or onto premises thereof, and in good faith provides such refuge or aid without objection of the endangered or needy person, whether child or adult, neither the person extending the aid and refuge nor the homeowner or head of household shall be liable for civil damages as a result of actions or omissions in rendering emergency physical care to the body of the aided person; nor shall they be liable for civil damages for any other injury in the home, or on premises thereof, to the person aided, nor for any failure to provide or arrange for his police protection or other protection or medical treatment, when the actions or omissions were those of an ordinarily reasonably prudent person under the circumstances without want of ordinary care or skill.”¹⁵⁰</p>
Oregon	<p>“No person may maintain an action for damages for injury, death or loss that results from acts or omissions of a person while rendering emergency medical assistance unless it is alleged and proved by the complaining party that the person was grossly negligent in rendering the emergency medical assistance.”¹⁵¹</p>
Pennsylvania	<p>“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</p>

¹⁴⁹ OKLA. STAT. tit. 76, § 5(a)(3) (2016).

¹⁵⁰ *Id.* § 5(a)(4).

¹⁵¹ OR. REV. STAT. § 30.800(2) (2015).

	<p>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, shall not be liable for any civil damages as a result of any acts or omissions by such physician or practitioner or registered nurse in rendering the emergency care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care.”¹⁵²</p> <p>“Any individual licensed to practice veterinary medicine who, in good faith, renders emergency care to any animal which such individual has discovered at the scene of an accident or emergency situation or which has immediately prior to the rendering of such care been brought to such individual's attention at or from the scene of any accident or emergency situation shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care, except any acts or omissions intentionally designed to harm, or any grossly negligent acts or omissions which result in harm to the animal.”¹⁵³</p> <p>“Any person who provides or obtains or attempts to provide or obtain assistance for a victim of a personal injury crime at the scene of the personal injury crime or attempted personal injury crime shall not be liable for any civil damages as a result of any acts or omissions in providing or obtaining or attempting to provide or obtain assistance, except any acts or omissions intentionally designed to harm or any acts or omissions that constitute gross negligence or willful, wanton or reckless conduct.”¹⁵⁴</p> <p>“Any person, including an emergency response provider, whether or not trained to practice medicine, who in good faith renders emergency care, treatment, first aid or rescue at the scene of an emergency event or crime, or who moves the person receiving such care, first aid or rescue to a hospital or other place of medical care, shall not be liable for any civil damages as a result of rendering such care, except in any act or omission intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care or being moved to a hospital or other place of medical care.”¹⁵⁵</p>
Rhode Island	<p>“Any person at the scene of an emergency who knows that another person is exposed to, or has suffered, grave physical harm shall, to the extent that he or she can do so without danger or peril to himself or herself or to others, give reasonable assistance to the exposed person. Any person violating the provisions of this section shall be guilty of a petty misdemeanor and shall be</p>

¹⁵² 42 PA. CONS. STAT. § 8331(a) (2016).

¹⁵³ *Id.* § 8331.1(a).

¹⁵⁴ *Id.* § 8331.3(a).

¹⁵⁵ *Id.* § 8332(a).

	<p>subject to imprisonment for a term not exceeding six (6) months, or by a fine of not more than five hundred dollars (\$ 500), or both.”¹⁵⁶</p> <p>“No person who voluntarily and gratuitously renders emergency assistance to a person in need thereof including the administration of life saving treatment to those persons suffering from anaphylactic shock shall be liable for civil damages which result from acts or omissions by such persons rendering the emergency care, which may constitute ordinary negligence. This immunity does not apply to acts or omissions constituting gross negligence or willful or wanton conduct.”¹⁵⁷</p>
South Carolina	<p>“Any person, who in good faith gratuitously renders emergency care at the scene of an accident or emergency to the victim thereof, shall not be liable for any civil damages for any personal injury as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person, except acts or omissions amounting to gross negligence or willful or wanton misconduct.”¹⁵⁸</p>
South Dakota	<p>“No peace officer, conservation officer, member of any fire department, police department and their first aid, rescue or emergency squad, or any citizen acting as such as a volunteer, or any other person is liable for any civil damages as a result of their acts of commission or omission arising out of and in the course of their rendering in good faith, any emergency care and services during an emergency which is in their judgment indicated and necessary at the time. Such relief from liability for civil damages extends to the operation of any motor vehicle in connection with any such care or services.”¹⁵⁹</p> <p>“No physician, surgeon, osteopath, physician assistant, registered nurse or licensed practical nurse, licensed under the provisions of chapters 36-4, 36-4A and 36-9, who in good faith renders, in this state, emergency care at the scene of the emergency, shall be liable for any civil damages as a result of any acts or omissions by such person rendering the emergency care.”¹⁶⁰</p>
Tennessee	<p>“Any person, including those licensed to practice medicine and surgery and including any person licensed or certified to render service ancillary thereto, or any member of a volunteer first aid, rescue or emergency squad that provides emergency public first aid and rescue services, shall not be liable to victims or persons receiving emergency care for any civil damages as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care</p>

¹⁵⁶ 11 R.I. GEN. LAWS § 56-1 (2016).

¹⁵⁷ 9 R.I. GEN. LAWS § 1-27.1 (2016).

¹⁵⁸ S.C. CODE ANN. § 15-1-310 (2016).

¹⁵⁹ S.D. CODIFIED LAWS § 20-9-4.1 (2016).

¹⁶⁰ *Id.* § 20-9-3.

	<p>for the injured person, except such damages as may result from the gross negligence of the person rendering such emergency care, who in good faith:</p> <p>(1) Renders emergency care at the scene of an accident, medical emergency and/or disaster, while en route from such scene to a medical facility and while assisting medical personnel at the receiving medical facility, including use of an automated external defibrillator, to the victim or victims thereof without making any direct charge for the emergency care; or</p> <p>(2) Participates or assists in rendering emergency care, including use of an automated external defibrillator, to persons attending or participating in performances, exhibitions, banquets, sporting events, religious or other gatherings open to the general public, with or without an admission charge, whether or not such emergency care is made available as a service, planned in advance by the promoter of the event and/or any other person or association.”¹⁶¹</p>
Texas	<p>“A person who in good faith administers emergency care is not liable in civil damages for an act performed during the emergency unless the act is willfully or wantonly negligent, including a person who administers emergency care using an automated external defibrillator or administers emergency care as a volunteer who is a first responder.”¹⁶²</p> <p>The exemption from liability does not apply to those administering care “in expectation of remuneration”, or “by a person who was at the scene of the emergency because he or a person he represents as an agent was soliciting business or seeking to perform a service for remuneration,”¹⁶³ nor to “a person whose negligent act or omission was a producing cause of the emergency for which care is being administered.”¹⁶⁴</p>
Utah	<p>“A person who renders emergency care at or near the scene of, or during an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency.”¹⁶⁵</p> <p>“A person licensed under Title 58, Occupations and Professions, to practice as any of the following health care professionals, who is under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care:</p>

¹⁶¹ TENN. CODE ANN. § 63-6-218(b) (2016).

¹⁶² TEX. CIV. PRAC. & REM. CODE ANN. § 74.151(a) (West 2015).

¹⁶³ *Id.* § 74.151(b).

¹⁶⁴ *Id.* § 74.151(c).

¹⁶⁵ UTAH CODE ANN. § 78B-4-501(1) (2014).

	<p>(a) osteopathic physician; (b) physician and surgeon; (c) naturopathic physician; (d) dentist or dental hygienist; (e) chiropractic physician; (f) physician assistant; (g) optometrist; (h) nurse (i) podiatrist; (j) certified nurse midwife; (k) respiratory care practitioner; (l) pharmacist, pharmacy technician, and pharmacy intern; (m) licensed Direct-entry midwife; or (n) veterinarian.”¹⁶⁶</p>
Vermont	<p>“A person who knows that another is exposed to grave physical harm shall, to the extent that the same can be rendered without danger or peril to himself or without interference with important duties owed to others, give reasonable assistance to the exposed person unless that assistance or care is being provided by others.”¹⁶⁷</p> <p>“A person who provides reasonable assistance in compliance with subsection (a) of this section shall not be liable in civil damages unless his acts constitute gross negligence or unless he will receive or expects to receive remuneration. Nothing contained in this subsection shall alter existing law with respect to tort liability of a practitioner of the healing arts for acts committed in the ordinary course of his practice.”¹⁶⁸</p> <p>“A person who willfully violates subsection (a) of this section shall be fined not more than \$ 100.00.”¹⁶⁹</p>

¹⁶⁶ *Id.* § 58-13-2(1).

¹⁶⁷ 12 VT. STAT. ANN. tit. § 519(a) (2017).

¹⁶⁸ *Id.* § 519(b).

¹⁶⁹ *Id.* § 519(c).

Virginia

“Any person who: [i]n good faith, renders emergency care or assistance, without compensation, 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 an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.”¹⁷⁰

“Any person who: [i]n the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.”¹⁷¹

“Any person who: [i]n good faith and without compensation, including any emergency medical services technician certified by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.”¹⁷²

“Any person who: [i]s an emergency medical care attendant possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.”¹⁷³

“Any person who: [i]n good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac

¹⁷⁰ VA. CODE ANN. § 8.01-225(1) (2015).

¹⁷¹ *Id.* § 8.01-225 (2).

¹⁷² *Id.* § 8.01-225(3).

¹⁷³ *Id.* § 8.01-225(5).

	defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.” ¹⁷⁴
Washington	<p>“Any person, including but not limited to a volunteer provider of emergency or medical services, who without compensation or the expectation of compensation renders emergency care at the scene of an emergency or who participates in transporting, not for compensation, therefrom an injured person or persons for emergency medical treatment shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care or in transporting such persons, other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person rendering emergency care during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care is excluded from the protection of this subsection.”¹⁷⁵</p> <p>“Any licensed health care provider regulated by a disciplining authority . . . in the state of Washington who, without compensation or the expectation of compensation, provides health care services at a community health care setting is not liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.”¹⁷⁶</p>
West Virginia	“No person, including a person licensed to practice medicine or dentistry, who in good faith renders emergency care at the scene of an accident or to a victim at the scene of a crime, without remuneration, shall be liable for any civil damages as the result of any act or omission in rendering such emergency care.” ¹⁷⁷
Wisconsin	Anyone who knows a crime is being committed exposing the victim to harm must summon law enforcement officers or other assistance or must provide assistance to the victim. ¹⁷⁸ Failing to do so is a Class C misdemeanor. ¹⁷⁹

¹⁷⁴ *Id.* § 8.01-225(6).

¹⁷⁵ WASH. REV. CODE § 4.24.300(1) (2015).

¹⁷⁶ *Id.* at § 4.24.300(2).

¹⁷⁷ W. VA. CODE § 55-7-15 (2015).

¹⁷⁸ WIS. STAT. § 940.34(2)(a) (2017).

¹⁷⁹ *Id.* § 940.34(1)(a).

	<p>“[A]ny person who renders emergency care at the scene of any emergency or accident in good faith shall be immune from civil liability for his or her acts or omissions in rendering such emergency care.”¹⁸⁰ “The immunity . . . does not extend when employees trained in health care or health care professionals render emergency care for compensation and within the scope of their usual and customary employment or practice at a hospital or other institution equipped with hospital facilities, at the scene of any emergency or accident, enroute to a hospital or other institution equipped with hospital facilities, or at a physician’s office.”¹⁸¹</p>
Wyoming	<p>“Any person licensed as a physician and surgeon under the laws of the state of Wyoming, or any other person, who in good faith renders emergency care or assistance without compensation at the place of an emergency or accident, is not liable for any civil damages for acts or omissions in good faith.”¹⁸²</p> <p>“Persons or organizations operating volunteer ambulances or rescue vehicles supported by public or private funds, staffed by unpaid volunteers, and which make no charge, or charge an incidental service or user fee, for services rendered during medical emergencies, and the unpaid volunteers who staff ambulances and rescue vehicles are not liable for any civil damages for acts or omissions in good faith in furnishing emergency medical services. This immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.”¹⁸³</p>
The Federal Statute	<p>Federal “Good Samaritan” protection is provided under the Volunteer Protection Act which generally protects volunteers of nonprofit and government entities from liability for harm caused by an act or omission of the volunteer acting within the scope of the volunteer’s responsibilities,¹⁸⁴ and not caused by the volunteer’s willful or criminal conduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.¹⁸⁵</p>

III. Statutory Framework Classifications - Analysis

a. States that Require Bystanders to Render Assistance in Emergencies

¹⁸⁰ *Id.* § 895.48(1).

¹⁸¹ *Id.* § 895.48 (1g).

¹⁸² WYO. STAT. ANN. § 1-1-120(a) (2016).

¹⁸³ *Id.* § 1-1-120(b).

¹⁸⁴ 42 U.S.C. § 14501.

¹⁸⁵ *Id.* § 14503.

As of this writing five states (Hawaii, Minnesota, Rhode Island, Vermont and Wisconsin) create an affirmative duty for bystanders to emergency situations to render assistance.

Hawaii makes it a petty misdemeanor for a “person at the scene of a crime who knows that a victim of the crime is suffering from serious physical harm” not to “obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person.”¹⁸⁶ The statute exempts from civil liability any person (other than physicians in the regular course of their practices) who gratuitously provides reasonable assistance, absent gross negligence or wanton acts or omissions.¹⁸⁷ It also precludes suits for civil damages for failure to comply with the statute.¹⁸⁸

Minnesota requires anyone at the scene of an emergency where someone is exposed to grave physical harm to render assistance when able to do so without endangering himself / herself or others.¹⁸⁹ Failure to do so is a misdemeanor.¹⁹⁰ Those who render assistance without the expectation of compensation are not liable for any civil damages absent wanton, willful or reckless actions.¹⁹¹

Rhode Island’s statute is very similar to Minnesota’s and makes failure to act a petty misdemeanor punishable by a fine of not more than \$500 and/or imprisonment of up to six months.¹⁹² Like Hawaii and Minnesota, Rhode Island exempts those who gratuitously render emergency care at the scene of an accident from civil liability, absent gross negligence or willful or wanton misconduct.¹⁹³

¹⁸⁶ HAW. REV. STAT. § 663-1.6(a) (2016).

¹⁸⁷ *Id.* § 663-1.6(b).

¹⁸⁸ *Id.* § 663-1.6(c).

¹⁸⁹ MINN. STAT. § 604A.01(1) (2017).

¹⁹⁰ *Id.*

¹⁹¹ *Id.* § 604A.01 (2) (a).

¹⁹² 12 R.I. GEN. LAWS § 11-56-1 (2016).

¹⁹³ *Id.* § 9-1-27.1.

Vermont provides a similar duty on persons who are aware another is exposed to grave physical harm to provide reasonable assistance as long as it poses no danger to themselves, does not interfere with their important duties owed to others, and as long as such assistance is not already being provided by others.¹⁹⁴ As is the case with Hawaii, Minnesota and Rhode Island, rendering such required assistance would exempt the assistant from civil liability, absent gross negligence, as long as remuneration for the assistance is not expected or received.¹⁹⁵ As is the case in Hawaii, the exemption from civil liability does not apply in Vermont to acts by practitioners of the healing arts in the normal course of their practices.¹⁹⁶ Failure to render such assistance as required is a violation that carries a fine not to exceed \$100.¹⁹⁷

Wisconsin requires anyone who knows a crime is being committed that exposes the victim to harm to summon law enforcement or other assistance or must provide assistance to the victim.¹⁹⁸ Failure to comply is a Class C misdemeanor.¹⁹⁹ Wisconsin also exempts persons rendering assistance at the scene of an emergency from civil liability and does not specifically exempt willful, wanton or grossly negligent acts.²⁰⁰ Like Hawaii and Vermont, Wisconsin does not extend the immunity to employees trained in health care or to health care professionals who render assistance for a fee within the scope of their employment at health care facilities, at the scene of accidents, en route to a hospital or other institution equipped with hospital facilities, or at physician's offices.²⁰¹

¹⁹⁴ VT. STAT. ANN. § 519 (a) (2016).

¹⁹⁵ *Id.* § 519 (b).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* § 519 (c).

¹⁹⁸ WIS. STAT. ANN § 940.34 (2) (A) (2017).

¹⁹⁹ *Id.* § 940.34 (1) (a) .

²⁰⁰ *Id.* § 895.48 (1) .

²⁰¹ *Id.* § 895.48 (1).

b. States that Exempt Only Health Care Professionals Who Provide Emergency Assistance from Civil Liability

Eight states (California, Connecticut, Hawaii, Illinois, Kansas, Louisiana, Michigan, and Missouri) currently limit civil liability for persons providing care in emergency situations only for licensed medical professionals.

California exempts from civil liability licensed medical professionals, law enforcement, and emergency personnel who provide medical and non-medical assistance without compensation at the scene of an emergency.²⁰² The exemption does not extend to willful acts or omissions.²⁰³ Reckless acts or omissions are not specifically addressed.

Connecticut exempts from liability for ordinary negligence an enumerated list of medical professionals (including doctors, dentists, nurses and medical technicians) who render gratuitous emergency assistance, not in the regular course of business, to a person in need thereof.²⁰⁴ Many non-medical personnel are also covered, including firefighters (paid and volunteer), teachers and emergency medical service personnel if they have completed a course in first aid from an approved agency.²⁰⁵

Illinois exempts medical professionals licensed in any U.S. state or territory and persons licensed under the Medical Practice Act of 1987 who provide emergency medical care in good faith and without a fee from civil liability, absent willful or wanton misconduct.²⁰⁶ It provides the same protection to law enforcement, firefighters, emergency medical technicians and first responders who

²⁰² CAL. HEALTH & SAFETY CODE § 1799.102 (a) (West 2015).

²⁰³ CAL. BUS. & PROF. CODE § 2395 (West 2015).

²⁰⁴ CONN. GEN. STAT. § 52-557b (a) (2014).

²⁰⁵ *Id.* §§ 52-557b (b), (h). *See* Table I, *supra* for additional details.

²⁰⁶ 745 ILL. COMP. STAT. 49/25 (2014).

provide emergency care without charging a fee, absent willful or wanton misconduct.²⁰⁷ Protection is also extended to various professionals and classes of people who render emergency care gratuitously under certain circumstances.²⁰⁸

Kansas exempts all health care providers who provide emergency care or assistance at the scene of an emergency or accident from liability for other than gross negligence or willful or wanton acts.²⁰⁹ The statute does not specify that the assistance must be provided gratuitously.

Louisiana exempts from liability a licensed physician, surgeon, or physician assistant or his limited liability company, or a licensed nurse who in good faith gratuitously renders emergency care or services at the scene of an emergency, absent willful or wanton misconduct or gross negligence.²¹⁰ Similar protection is provided for veterinarians who render emergency assistance to animals at the scene of an emergency.²¹¹ Dentists who provide assistance gratuitously at the scene of an emergency are also covered,²¹² as are emergency medical technicians who gratuitously provide assistance at the scene of an emergency.²¹³

Michigan exempts from liability acts or omissions of a physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care

²⁰⁷ 745 ILL. COMP. STAT. 49/70 (2014).

²⁰⁸ See Table I, *supra*. See also 745 ILL. COMP. STAT. 49/60, 49/55, 49/50, 49/46, 49/75, 49/72, 49/71, 49/67, 49/45, 49/42, 49/35, 49/15, 49/5.

²⁰⁹ KAN. STAT. ANN. § 65-2891 (a) (2014). KAN. STAT. ANN. § 65-2891 (e) (2014) enumerates individuals that qualify as health care providers as 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, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physician assistants of the American board of medical examiners, any licensed athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate, any person who holds a valid certificate for the successful completion of an approved course in first aid, and any person engaged in a postgraduate training program approved by the state board of healing arts.

²¹⁰ LA. STAT. ANN. § 37:1731(A)(1) (2015).

²¹¹ *Id.* § 37:1731(C).

²¹² *Id.* § 37:1731(D).

²¹³ *Id.* § 37:1731(E)(1).

without compensation at the scene of an emergency, absent gross negligence or willful or wanton misconduct.²¹⁴ The protection does not attach, however, if a caregiver - patient relationship existed prior to the assistance being rendered.²¹⁵ The statute also covers restaurant owners or workers who in good faith assist in the removal or attempted removal of food lodged in an individual's throat, absent gross negligence.²¹⁶

Missouri protects from liability for civil damages any physician or surgeon, registered professional nurse or licensed practical nurse licensed to practice in any state, and any person licensed as a mobile emergency medical technician who renders emergency treatment, in good faith and without compensation, at the scene of an accident or emergency, absent gross negligence or willful or wanton acts or omissions.²¹⁷ The same protection is extended to individuals who are trained in first aid by a recognized training program.²¹⁸ “Any mental health professional . . . or qualified counselor . . . or any practicing medical, osteopathic, or chiropractic physician, or certified nurse practitioner, or physicians’ assistant [who] in good faith render[s] suicide prevention interventions at the scene of a threatened suicide . . .” is also exempt from liability for civil damages for acts or omissions, absent gross negligence or willful or wanton acts or omissions.²¹⁹ Anyone else who provides “suicide prevention interventions at the scene of a threatened suicide” without compensation is also exempt from liability for civil damages, absent gross negligence or willful or wanton acts or omissions.²²⁰ Note that Missouri protects laypersons who intervene at a threatened suicide site, but not at other emergency situations.

²¹⁴ MICH. COMP. LAWS § 691.1501(1) (2015).

²¹⁵ *Id.*

²¹⁶ *Id.* § 691.1522.

²¹⁷ MO. REV. STAT. § 537.037(1) (2014).

²¹⁸ *Id.* § 537.037(2).

²¹⁹ *Id.* § 537.037(3).

²²⁰ *Id.* § 537.037(4).

c. States that Exempt Anyone Who Provides Emergency Assistance

At present, the remaining 37 states and the District of Columbia exempt from liability anyone who provides good faith emergency care under certain circumstances, and do not require giving assistance to persons in emergency situations.²²¹

d. The Federal Statute - Exempts Volunteers of Nonprofit and Government Entities.

The federal protection provided under the Volunteer Protection Act generally protects volunteers of nonprofit and governmental entities from liability for harm caused by an act or omission by a volunteer acting within the scope of the volunteer's responsibilities. This law appears to reflect a trend, as addressed below, towards increasing Good Samaritan protection to people and possibly the entities that employ them as volunteers from liability risk to which they traditionally may have been exposed.

IV. Where Do We Go from Here?

A look at a recent court interpretation of the California statute²²² reveals a nod to a conservative approach. As provided in the statute, the California Court of Appeal in 2007 held that a person who rendered assistance at an automobile accident did not render “medical care at the scene of [a medical] emergency . . .”²²³ The court thus rendered a strict construction of the statute in the circumstances.

²²¹ Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, the District of Columbia, Florida, Idaho, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming.

²²² CAL. HEALTH & SAFETY CODE § 1799.102(a) (2015). (*See also supra* Table I).

²²³ *Id.*

Around when the *Van Horn* decision was filed, however, the University of North Carolina at Chapel Hill indicated that perhaps the time had come to re-visit the scope of protection to be provided by Good Samaritan statutes, at least in the context of public health emergencies. In its July 6, 2006 press release, entitled “Laws Covering Public Health Crises to be Reviewed in University of North Carolina Program”²²⁴, the University cited Gene W. Matthews, Senior Institute Fellow at the North Carolina Institute for Public Health, who stated, “Now, most state ‘Good Samaritan’ laws say that individuals who try to help others during a crisis cannot be sued for those actions. But no such laws protect businesses and nonprofit entities from this type of legal action. Public health officials have an interest in removing this disincentive to public-private collaboration . . .”²²⁵

Such thinking builds on statutes such as the California Civil Code,²²⁶ which provides for liability protection for certain owners of premises designated as “emergency shelters” and liability of disaster service workers in certain emergency situations. Such statutory liability protection is consistent with the aforementioned federal Volunteer Protection Act.²²⁷

Further, the North Carolina Institute, having been awarded an approximately \$800,000 grant from the Alfred P. Sloan Foundation, embarked on a two year study titled, “Preparing for the Moment of Law and Policy Changes: A Business and Public Health Partnership Initiative.”²²⁸ As stated in the previously cited news release, “[t]he program's first goal is to create a national template that outlines key policy and cost options for reducing liability exposure and encouraging public-private collaboration.”²²⁹ By 2009, the Robert Wood Johnson Foundation’s Trust for

²²⁴ Press Release, The Univ. of N.C. at Chapel Hill, Laws Covering Pub. Health Crises to be Reviewed in Univ. of N.C. Program (July 6, 2006).

²²⁵ *Id.*

²²⁶ CAL. CIV. CODE § 1714.5 (2009).

²²⁷ 42 U.S.C. § 14501 (1997).

²²⁸ Press Release, The Univ. of N.C. at Chapel Hill, *supra* note 218.

²²⁹ Press Release, The Univ. of N.C. at Chapel Hill, *supra* note 218.

America's Health issued its "Ready or Not?" report entitled "Protecting the Public's Health from Diseases, Disasters, and Bioterrorism."²³⁰ The report enumerated ten indicators of state public health preparedness and the score each state achieved.²³¹ Indicator 9 is entitled, "Entity Emergency Liability Protection,"²³² and addresses the question, "[d]oes the state have laws that reduce or limit the liability for businesses and non-profit organizations that serve in a public health emergency?"²³³ Per the report, Indicator 9 "helps evaluate states' abilities to work with the private sector in the event of a public health emergency. The lack of liability protection is a serious deterrent to many businesses and non-profits that may want to offer their services but are fearful of doing so without clear liability laws."²³⁴ As of the report date, 33 states and the District of Columbia have adequate liability protection laws for these circumstances.²³⁵

While these considerations have been posed in the context of public emergencies, as opposed to random events such as automobile accidents, they still pose an expansion of the notion that "Good Samaritans" should receive legal protection, an expansion that enters into the activities of traditionally already duty-bound agencies, such as governmental entities and hospitals. As such, the application of *respondeat superior* might not accrue, resulting in liability protection of entities such as hospitals, which are otherwise normally responsible for emergency treatment where the treatment by its employee or agent goes awry.

The expansion is also affected indirectly by expanded applications of the meanings of "volunteer," "pre-existing legal duty," and "emergency," which often allows Good Samaritan laws to

²³⁰ JEFFREY LEVI ET AL., TRUST FOR AMERICA'S HEALTH, READY OR NOT? PROTECTING THE PUBLIC'S HEALTH FROM DISEASES, DISASTERS, AND BIOTERRORISM (2009).

²³¹ *Id.* at 11, 14.

²³² *Id.* at 14.

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.* at 35.

supply liability protections. For example, in the 1997 case, *Hirpa v. IHC Hosps., Inc.*, a physician who was being compensated for services, but not directly supplied at the time of occurrence of injury, volunteered and took over an emergency (an occurrence for which there existed no pre-existing legal duty) for another physician to deliver a child, and the mother died in the process.²³⁶ The court ultimately found no liability for the volunteering doctor or the hospital.²³⁷

Less subtle expansion can be seen in case decisions such as *Harris v. Soba*. A Florida Court of Appeal found that Florida's Good Samaritan statute applied to protect an on-call anesthesiologist who "voluntary" left his post in the obstetric suite to render assistance in the emergency room to a patient who ultimately died.²³⁸

Yet in another case of patient death, the court reached a different result. In *Chamley v. Khokha*,²³⁹ the Supreme Court of North Dakota in 2007 decided that a physician was not a "good Samaritan" under the North Dakota statute where the physician, as a matter of law, had an expectation of remuneration.²⁴⁰

V. Conclusion

In sum, while the overall state of Good Samaritan laws in the United States is evolving, it appears the trend is moving in the direction of greater liability protection of those who assist the situations in which they exist, and by extension, those for whom they work in situations that otherwise might traditionally have been deemed ones in which the doctrine *respondeat superior* would have applied. The aforementioned Indicator 9,²⁴¹ while being promoted for the purpose of major

²³⁶ 948 P.2d 785, 787 (Utah 1997).

²³⁷ *Id.* at 793-794.

²³⁸ 15 So. 3d 767, 768 (Fla. Dist. Ct. App. 2009) (applying FLA. STAT. § 768.13(2)(c)(1) (2004)).

²³⁹ 730 N.W.2d 864 (N.D. 2007).

²⁴⁰ *Chamley*, 730 N.W.2d at 868 (applying N.D. CENT. CODE § 32-03.1-04 (2016)).

²⁴¹ *See* Levi, *supra* note 224, at 14.

emergency crises, when combined with the broad definition some courts allow for what constitutes an emergency, and the other considerations discussed herein, and considering the number of states now requiring affirmative action where one comes upon an emergency situation, shows that traditional Good Samaritan volunteerism appears to be expanding to protect entities that by the nature of their inherent missions and responsibilities, arguably should not benefit from such extensive protections.

Accordingly, legislatures and courts must be careful to properly limit the application of to whom and in what circumstances “Good Samaritan laws” should apply.