

By the Committee on Health, Aging and Long-Term Care; and  
Senator Brown-Waite

317-2160-02

1                                   A bill to be entitled  
2           An act relating to medical negligence; amending  
3           s. 768.13, F.S.; providing immunity from civil  
4           damages under the Good Samaritan Act for  
5           actions taken in response to situations during  
6           a declared public health emergency; revising  
7           the circumstances under which immunity from  
8           civil damages is extended to actions taken by  
9           persons licensed to practice medicine;  
10          providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Paragraphs (a) and (b) of subsection (2) of  
15 section 768.13, Florida Statutes, are amended to read:  
16           768.13 Good Samaritan Act; immunity from civil  
17 liability.--

18           (2)(a) Any person, including those licensed to  
19 practice medicine, who gratuitously and in good faith renders  
20 emergency care or treatment either in direct response to  
21 emergency situations related to and arising out of a public  
22 health emergency declared pursuant to s. 381.00315,a state of  
23 emergency which has been declared pursuant to s. 252.36 or at  
24 the scene of an emergency outside of a hospital, doctor's  
25 office, or other place having proper medical equipment,  
26 without objection of the injured victim or victims thereof,  
27 shall not be held liable for any civil damages as a result of  
28 such care or treatment or as a result of any act or failure to  
29 act in providing or arranging further medical treatment where  
30 the person acts as an ordinary reasonably prudent person would  
31 have acted under the same or similar circumstances.

1           (b)1. Any hospital licensed under chapter 395, any  
2 employee of such hospital working in a clinical area within  
3 the facility and providing patient care, and any person  
4 licensed to practice medicine who in good faith renders  
5 medical care or treatment necessitated by a sudden, unexpected  
6 situation or occurrence resulting in a serious medical  
7 condition demanding immediate medical attention, for which the  
8 patient enters the hospital through its emergency room or  
9 trauma center, or necessitated by a public health emergency  
10 declared pursuant to s. 381.00315 shall not be held liable for  
11 any civil damages as a result of such medical care or  
12 treatment unless such damages result from providing, or  
13 failing to provide, medical care or treatment under  
14 circumstances demonstrating a reckless disregard for the  
15 consequences so as to affect the life or health of another.

16           2. The immunity provided by this paragraph does not  
17 apply to damages as a result of any act or omission of  
18 providing medical care or treatment:

19           a. Which occurs after the patient is stabilized and is  
20 capable of receiving medical treatment as a nonemergency  
21 patient, unless surgery is required as a result of the  
22 emergency within a reasonable time after the patient is  
23 stabilized, in which case the immunity provided by this  
24 paragraph applies to any act or omission of providing medical  
25 care or treatment which occurs prior to the stabilization of  
26 the patient following the surgery; or

27           b. Unrelated to the original medical emergency.

28           3. For purposes of this paragraph, "reckless  
29 disregard" as it applies to a given health care provider  
30 rendering emergency medical services shall be such conduct  
31 which a health care provider knew or should have known, at the

1 time such services were rendered, would be likely to result in  
2 injury so as to affect the life or health of another, taking  
3 into account the following to the extent they may be present;

4 a. The extent or serious nature of the circumstances  
5 prevailing.

6 b. The lack of time or ability to obtain appropriate  
7 consultation.

8 c. The lack of a prior patient-physician relationship.

9 d. The inability to obtain an appropriate medical  
10 history of the patient.

11 e. The time constraints imposed by coexisting  
12 emergencies.

13 4. Every emergency care facility granted immunity  
14 under this paragraph shall accept and treat all emergency care  
15 patients within the operational capacity of such facility  
16 without regard to ability to pay, including patients  
17 transferred from another emergency care facility or other  
18 health care provider pursuant to Pub. L. No. 99-272, s. 9121.  
19 The failure of an emergency care facility to comply with this  
20 subparagraph constitutes grounds for the department to  
21 initiate disciplinary action against the facility pursuant to  
22 chapter 395.

23 Section 2. This act shall take effect upon becoming a  
24 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1262

The Committee Substitute extends immunity from civil liability under the Good Samaritan Act to:

Persons who gratuitously and in good faith render emergency care or treatment in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, F.S., and

Any licensed hospital, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a public health emergency declared pursuant to s. 381.00315, F.S.