

HB 1441

2004

1 A bill to be entitled

2 An act relating to the Good Samaritan Act; amending s.  
3 768.13, F.S.; providing immunity from civil liability for  
4 a person who participates in the emergency response  
5 activities of a community emergency response team if that  
6 person acts prudently and within the scope of his or her  
7 training; providing an effective date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. Subsection (2) of section 768.13, Florida  
12 Statutes, is amended to read:

13 768.13 Good Samaritan Act; immunity from civil  
14 liability.--

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

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29 (b)1. Any health care provider, including a hospital  
30 licensed under chapter 395, providing emergency services  
31 pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s.  
32 395.1041, s. 395.401, or s. 401.45 shall not be held liable for  
33 any civil damages as a result of such medical care or treatment  
34 unless such damages result from providing, or failing to  
35 provide, medical care or treatment under circumstances  
36 demonstrating a reckless disregard for the consequences so as to  
37 affect the life or health of another.

38 2. The immunity provided by this paragraph applies to  
39 damages as a result of any act or omission of providing medical  
40 care or treatment, including diagnosis:

41 a. Which occurs prior to the time the patient is  
42 stabilized and is capable of receiving medical treatment as a  
43 nonemergency patient, unless surgery is required as a result of  
44 the emergency within a reasonable time after the patient is  
45 stabilized, in which case the immunity provided by this  
46 paragraph applies to any act or omission of providing medical  
47 care or treatment which occurs prior to the stabilization of the  
48 patient following the surgery.

49 b. Which is related to the original medical emergency.

50 3. For purposes of this paragraph, "reckless disregard" as  
51 it applies to a given health care provider rendering emergency  
52 medical services shall be such conduct that a health care  
53 provider knew or should have known, at the time such services  
54 were rendered, created an unreasonable risk of injury so as to  
55 affect the life or health of another, and such risk was  
56 substantially greater than that which is necessary to make the  
57 conduct negligent.

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58           4. Every emergency care facility granted immunity under  
59 this paragraph shall accept and treat all emergency care  
60 patients within the operational capacity of such facility  
61 without regard to ability to pay, including patients transferred  
62 from another emergency care facility or other health care  
63 provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of  
64 an emergency care facility to comply with this subparagraph  
65 constitutes grounds for the department to initiate disciplinary  
66 action against the facility pursuant to chapter 395.

67           (c)1. Any health care practitioner as defined in s.  
68 456.001(4) who is in a hospital attending to a patient of his or  
69 her practice or for business or personal reasons unrelated to  
70 direct patient care, and who voluntarily responds to provide  
71 care or treatment to a patient with whom at that time the  
72 practitioner does not have a then-existing health care patient-  
73 practitioner relationship, and when such care or treatment is  
74 necessitated by a sudden or unexpected situation or by an  
75 occurrence that demands immediate medical attention, shall not  
76 be held liable for any civil damages as a result of any act or  
77 omission relative to that care or treatment, unless that care or  
78 treatment is proven to amount to conduct that is willful and  
79 wanton and would likely result in injury so as to affect the  
80 life or health of another.

81           2. The immunity provided by this paragraph does not apply  
82 to damages as a result of any act or omission of providing  
83 medical care or treatment unrelated to the original situation  
84 that demanded immediate medical attention.

85           3. For purposes of this paragraph, the Legislature's  
86 intent is to encourage health care practitioners to provide

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87 necessary emergency care to all persons without fear of  
88 litigation as described in this paragraph.

89 (d) Any person whose acts or omissions are not otherwise  
90 covered by this section and who participates in the emergency  
91 response activities of a community emergency response team is  
92 not liable for civil damages as a result of care, treatment, or  
93 services provided in such capacity or as a result of any act or  
94 failure to act in such capacity in providing or arranging  
95 further care, treatment, or services, if such person acts within  
96 the scope of his or her training and acts as a reasonably  
97 prudent person would have acted under the same or similar  
98 circumstances.

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