
A BILL FOR AN ACT

RELATING TO EMERGENCY MEDICAL PHYSICIANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the fear of
2 excessive jury awards, coupled with limited insurance coverage,
3 and rising liability premiums has created undue financial
4 pressure on medical physicians, forcing them to limit or quit
5 providing emergency medical care.

6 This situation not only hurts doctors, but potentially
7 limits patient access to quality emergency medical care. Hawaii
8 citizens need protection against true negligence and
9 malpractice, while also protecting Hawaii's physicians who
10 provide emergency medical care against unfounded lawsuits.

11 Accordingly, the purpose of this Act is to provide
12 additional protection for physicians who render medical services
13 in emergency situations involving an immediate threat of death
14 or serious bodily injury.

15 SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§663-1.5 Exception to liability.** (a) Any person who in
18 good faith renders emergency care, without remuneration or



1 expectation of remuneration, at the scene of an accident or
2 emergency to a victim of the accident or emergency shall not be
3 liable for any civil damages resulting from the person's acts or
4 omissions, except for such damages as may result from the
5 person's gross negligence or wanton acts or omissions.

6 (b) No act or omission of any rescue team or physician
7 working in direct communication with a rescue team operating in
8 conjunction with a hospital or an authorized emergency vehicle
9 of the hospital or the State or county, while attempting to
10 resuscitate any person who is in immediate danger of loss of
11 life, shall impose any liability upon the rescue team, the
12 physicians, or the owners or operators of such hospital or
13 authorized emergency vehicle, if good faith is exercised.

14 This section shall not relieve the owners or operators of
15 the hospital or authorized emergency vehicle of any other duty
16 imposed upon them by law for the designation and training of
17 members of a rescue team or for any provisions regarding
18 maintenance of equipment to be used by the rescue team or any
19 damages resulting from gross negligence or wanton acts or
20 omissions.

21 (c) Any physician licensed to practice under the laws of
22 this State or any other state who in good faith renders



1 emergency medical care in a hospital to a person~~[7]~~ who has not
2 been discharged from the hospital and is in immediate danger of
3 loss of life~~[7, without remuneration or expectation of~~
4 ~~remuneration,]~~ or has a serious bodily injury shall not be
5 liable for any civil damages, if the physician exercises that
6 standard of care expected of similar physicians under similar
7 circumstances~~[7]~~ except damages resulting from the physician's
8 gross negligence or wanton acts or omissions.

9 (d) Any physician licensed to practice under the laws of
10 this State or any other state who in good faith renders
11 emergency obstetrical medical care in a hospital to a person who
12 is in immediate danger of loss of life or serious bodily injury,
13 has not been discharged from medical care in the hospital, and:

14 (1) Has not received prenatal care; or

15 (2) Has no previous doctor/patient relationship between
16 the physician or a member of the physician's practice,
17 shall not be liable for any civil damages unless damages
18 resulted from the physician's gross negligence or wanton acts or
19 omissions.

20 ~~[(d)]~~ (e) Any person or other entity who as a public
21 service publishes written general first aid information dealing
22 with emergency first aid treatment, without remuneration or



1 expectation of remuneration for providing this public service,
2 shall not be liable for any civil damages resulting from the
3 written publication of such first aid information except as may
4 result from its gross negligence or wanton acts or omissions.

5 [~~(e)~~] (f) Any person who in good faith, without
6 remuneration or expectation of remuneration, attempts to
7 resuscitate a person in immediate danger of loss of life when
8 administering any automated external defibrillator, regardless
9 of where the automated external defibrillator that is used is
10 located, shall not be liable for any civil damages resulting
11 from any act or omission except as may result from the person's
12 gross negligence or wanton acts or omissions.

13 Any person, including an employer, who provides for an
14 automated external defibrillator shall not be vicariously liable
15 for any civil damages resulting from any act or omission of the
16 persons or employees who, in good faith and without remuneration
17 or the expectation of remuneration, attempt to resuscitate a
18 person in immediate danger of loss of life by administering an
19 automated external defibrillator, except as may result from a
20 person's or employer's gross negligence or wanton acts or
21 omissions.



1 ~~(f)~~ (g) Any physician who administers an automated
2 external defibrillator program without remuneration or
3 expectation of remuneration shall not be liable for any civil
4 damages resulting from any act or omission involving the use of
5 an automated external defibrillator, except as may result from
6 the physician's gross negligence or wanton acts or omissions.

7 ~~(g)~~ (h) This section shall not relieve any person,
8 physician, or employer of:

- 9 (1) Any other duty imposed by law regarding the
10 designation and training of persons or employees;
- 11 (2) Any other duty imposed by provisions regarding the
12 maintenance of equipment to be used for resuscitation;
13 or
- 14 (3) Liability for any damages resulting from gross
15 negligence, or wanton acts or omissions.

16 ~~(h)~~ (i) For the purposes of this section:

17 "Automated external defibrillator program" means an
18 appropriate training course that includes cardiopulmonary
19 resuscitation and proficiency in the use of an automated
20 external defibrillator.



1 "Good faith" includes but is not limited to a reasonable
2 opinion that the immediacy of the situation is such that the
3 rendering of care should not be postponed.

4 "Rescue team" means a special group of physicians, basic
5 life support personnel, advanced life support personnel,
6 surgeons, nurses, volunteers, or employees of the owners or
7 operators of the hospital or authorized emergency vehicle who
8 have been trained in basic or advanced life support and have
9 been designated by the owners or operators of the hospital or
10 authorized emergency vehicle to attempt to provide such support
11 and resuscitate persons who are in immediate danger of loss of
12 life in cases of emergency."

13 SECTION 3. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.
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Report Title:

Emergency Room Physicians; Good Samaritan

Description:

Provides additional protection for physicians who render medical services in genuine emergency situations involving an immediate threat of death or serious bodily injury.

