

## ALABAMA

### Section 6-5-332

#### **Persons rendering emergency care etc., at scene of accident, etc.**

(a) When any doctor of medicine or dentistry, nurse, member of any organized rescue squad, member of any police or fire department, member of any organized volunteer fire department, Alabama-licensed emergency medical technician, intern or resident practicing in an Alabama hospital with training programs approved by the American Medical Association, Alabama state trooper, medical aidman functioning as a part of the military assistance to safety and traffic program, chiropractor, or public education employee gratuitously and in good faith, renders first aid or emergency care at the scene of an accident, casualty, or disaster to a person injured therein, he or she shall not be liable for any civil damages as a result of his or her acts or omissions in rendering first aid or emergency care, nor shall he or she be liable for any civil damages as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person.

(b) Any member of the crew of a helicopter which is used in the performance of military assistance to safety and traffic programs and is engaged in the performance of emergency medical service acts shall be exempt from personal liability for any property damages caused by helicopter downwash or by persons disembarking from the helicopter.

(c) When any physician gratuitously advises medical personnel at the scene of an emergency episode by direct voice contact, to render medical assistance based upon information received by voice or biotelemetry equipment, the actions ordered taken by the physician to sustain life or reduce disability shall not be considered liable when the actions are within the established medical procedures.

(d) Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any person designated by an operator furnishing a mine rescue team to supervise, assist in planning or provide service thereto, who, in good faith, performs or fails to perform any act or service in connection with mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any acts or omissions. Nothing contained in this subsection shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations.

(e) A person or entity, who in good faith and without compensation renders emergency care or treatment to a person suffering or appearing to suffer from cardiac arrest, which may include the use of an automated external defibrillator, shall be immune from civil liability for any personal injury as a result of 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 prudent person would have acted under the same or similar circumstances, except damages that may result for the gross negligence of the person rendering emergency care. This immunity shall extend to the licensed physician or medical authority who is involved in automated external defibrillator site placement, the person who provides training in CPR and the use of the automated external defibrillator, and the person or entity responsible for the

site where the automated external defibrillator is located. This subsection specifically excludes from the provision of immunity any designers, manufacturers, or sellers of automated external defibrillators for any claims that may be brought against such entities based upon current Alabama law.

*(Acts 1966, Ex. Sess., No. 253, p. 377; Acts 1975, No. 1233, p. 2594; Acts 1981, No. 81-804, p. 1427; Acts 1987, No. 87-390, p. 558, §1; Acts 1993, No. 93-373, §1; Act 99-370, p. 595, §3.)*

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**Section 6-5-336**

**Volunteers.**

(a) This section shall be known as "The Volunteer Service Act."

(b) The legislature finds and declares that:

(1) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;

(2) The contributions of programs, activities, and services to communities is diminished and worthwhile programs, activities, and services are deterred by the unwillingness of volunteers to serve either as volunteers or as officers, directors, or trustees of nonprofit public and private organizations;

(3) The provisions of this section are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

(c) For the purposes of this section, the meaning of the terms specified shall be as follows:

(1) **GOVERNMENTAL ENTITY.** Any county, municipality, township, school district, chartered unit, or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office, officer, task force, or other agency of any state;

(2) **NONPROFIT CORPORATION.** Any corporation which is exempt from taxation pursuant to Section 501(a) of the Internal Revenue Code, 26 U.S.C. Section 501(a);

(3) **NONPROFIT ORGANIZATION.** Any organization which is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code, 26 U.S.C. Section 501(c), as amended;

(4) **VOLUNTEER.** A person performing services for a nonprofit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(d) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

- (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, hospital, or a governmental entity; and
- (2) The damage or injury was not caused by willful or wanton misconduct by such volunteer.
- (e) In any suit against a nonprofit organization, nonprofit corporation, or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the responsibility of the organization therefor under the doctrine of "respondeat superior," notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection (d).

*(Acts 1991, No. 91-439, p. 781, §§1-4; Acts 1993, No. 93-614, §1(1).)*

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**Section 6-5-663**

**Liability of volunteer medical professionals.**

- (a) A medical professional who, in good faith, provides, without fee or compensation, medical treatment, diagnosis, advice, or nursing services as a part of the services of an established free medical clinic, shall not be liable for civil damages as a result of his or her acts or omissions in providing the medical treatment, diagnosis, advice, or nursing services, unless the act or omission was the result of the licensed healthcare provider's willful or wanton misconduct.
- (b) Subsection (a) does not apply to a particular case unless the free medical clinic has posted in a conspicuous place on its premises an explanation of the immunity from civil liability provided by this article.
- (c) The immunity from civil liability provided under subsection (a) also applies to medical professionals who provide, without fee or compensation, further medical treatment, diagnosis, advice, or nursing services to a patient upon referral from an established free medical clinic.
- (d) Acceptance by a free medical clinic of a contribution made by a person receiving services at the clinic shall not constitute a waiver of immunity as provided in this article.
- (e) In any suit against a free medical clinic for civil damages based upon the negligent act or omission of a volunteer medical professional, proof of such act or omission shall not be sufficient to establish the responsibility of the clinic under the doctrine of "respondeat superior," notwithstanding the immunity granted to the volunteer medical professional with respect to any act or omission included under subsection (a), unless such act or omission is found to be willful or wanton.

*(Act 2000-680, p. 1383, §5.)*

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**Louisiana**

PART V. GOOD SAMARITAN LAW

§1731. Gratuitous service at scene of emergency; emergency care at hospitals; limitation of liability

A.(1) A physician, surgeon, or physician assistant licensed under the provisions of Chapter 15 of this Title, his professional medical corporation chartered under the provisions of R.S. 12:901 et seq., or his limited liability company, or a nurse licensed under the provisions of Chapter 11 of this Title 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.

(2)(a) A physician, on-call physician, or surgeon or oral and maxillofacial surgeon, or his professional medical or dental corporation or limited liability company or nurse, licensed or qualified as provided in Paragraph (A)(1) of this Section, or an intern, or resident of a public or private hospital or other medical health care facility licensed in this state, who in good faith responds to an imminent life-threatening situation or emergency within the hospital or facility and whose actual duty in the hospital or facility did not require a response to an emergency situation shall not be liable for civil damages resulting from any act or omission in rendering the emergency care or service or from failure to provide or arrange for further medical care or treatment of the person involved, unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

(b) The limitation of liability provided in Subparagraph (2)(a) of this Subsection shall not apply when, prior to the advent of the imminent life-threatening situation or emergency, the physician or surgeon or his professional medical corporation or limited liability company was a contemporaneously attending or consulting physician or surgeon to the person involved or when the nurse was a contemporaneously attending nurse to the person involved.

(c) An on-call physician or oral and maxillofacial surgeon who gratuitously attends, assists, or treats a patient who comes into an emergency room or department, including any appropriate standard of care treatment necessitated by the patient's emergent condition, shall not be liable for civil damages resulting from any act or omission in rendering the emergency care or service to a patient, with whom there has been no prior physician-patient relationship or from failure to provide or arrange for further medical care or treatment to such patient unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

(d) For purposes of this Subsection, "on-call physician" means a physician, or oral and maxillofacial surgeon or his professional medical or dental corporation or limited liability company, who is not primarily employed or contracted by the hospital or other licensed medical health care facility to treat emergency room or department patients, but whose actual duties may include treating emergency room or department patients due to the requirements of 42 C.F.R. 489.24 or R.S. 40:2113.4 to respond to

the emergency room or department on an on-call basis and as a condition of the privilege or ability to practice his profession within the hospital or facility.

B. Any physician, surgeon, or member of the medical profession who is not licensed to practice medicine in Louisiana but who holds a valid license to practice medicine in any other state of the United States who gratuitously renders care or services at the scene of an emergency as herein provided shall not be charged with violation of the Louisiana Medical Practice Act.

C. No veterinarian licensed under the provisions of Chapter 18 of this Title, 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, shall be 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 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.

D. No dentist licensed under the provisions of Chapter 9 of this Title, who in good faith gratuitously renders emergency care or services at the scene of an emergency, except in a licensed dentist office or public or private hospital, to a person or persons in need thereof shall be 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.

E.(1) No 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 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.

(2) For purposes of this Section, "emergency medical technician" means a certified first responder as defined in R.S. 40:1231(10) and a certified emergency medical technician as defined in R.S. 40:1231(3), (4), or (5).

Acts 1964, No. 46, §1; Acts 1989, No. 347, §1; Acts 1990, No. 148, §1; Acts 1993, No. 618, §1; Acts 1997, No. 316, §1; Acts 1997, No. 1105, §1, eff. July 14, 1997; Acts 2003, No. 1033, §1.

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## RS 9:2799.5

§2799.5. Limitation of liability for gratuitous service by a health care provider in a community health care clinic or community pharmacy

A. The Legislature of Louisiana finds that the lack of affordable health care and medication is a health threat to the citizens of Louisiana. The legislature further finds that the rendering of gratuitous services by health care providers in and for community health

care clinics and the availability of free medication provide needed medical services and pharmaceuticals which can save the lives of many citizens of this state, particularly children.

B.(1) No health care provider who in good faith gratuitously renders health care services in a community health care clinic or pursuant to an arrangement with a community health care clinic providing that such services will be rendered at the offices of a health care provider shall 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 to any person receiving such services, unless the damages were caused by the gross negligence or willful or wanton misconduct of the health care provider.

(2)(a) The provisions of this Subsection shall be applicable only if the person receiving the health care services receives prior notice from the community health care clinic of the limitation of liability provided for in this Paragraph.

(b) Either at the initial screening of a person or at the time health care services are provided, the community health care clinic or the community health care provider furnishing services shall inform such person of the limitation of liability provided by this Section by: distributing to such person a notice, in a form such person can keep; and have printed and keep posted, at a convenient and conspicuous place where patients entering the clinic will see it, which notice shall read substantially as follows:

"NOTICE - If you are injured here because of things we do or fail to do, you do not have the same legal recourse as you would have against other health care providers."

(c) If the notice is posted, the notice shall be printed in type size sufficient to be easily read by patients upon entering the facility.

(d) Failure to follow notice procedures as provided in this Section negates the limitation of liability provided by this Section.

(3)(a) A community health care clinic or community pharmacy shall conduct a screening to determine whether a prospective patient is enrolled or eligible to be enrolled in a gratuitous medical or dental treatment plan, including enrollment or eligibility to be enrolled for health care benefits in a public entitlement program, including Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Medicare.

(b) A community health care clinic or community pharmacy may provide or arrange health care services for a patient who is enrolled or eligible to be enrolled for those services under any gratuitous plan or entitlement program for the immediate or current health condition, illness, injury, or disease and any subsequent medically necessary health care services to diagnose, prevent, treat, cure, or relieve the health condition, illness, injury, or disease. The provision or arrangement for health care services by a community health care clinic or community pharmacy to a patient shall be based on the health care resources of that clinic or pharmacy.

(c) A community health care clinic or community pharmacy shall provide assistance to an eligible patient on enrollment in a gratuitous medical or dental treatment plan or a public entitlement program for which he may qualify within sixty days of screening by the clinic or pharmacy in accordance with Subparagraph (3)(a) of this Subsection.

(d) Nothing in this Section shall be construed to prohibit any individual from receiving health care services provided or arranged by a community health care clinic or community pharmacy.

(4) A community health care clinic that provides or arranges for services at the office of a licensed health care provider after due notice is provided pursuant to Paragraph (2) of this Subsection and appropriate financial screening shall refer a person who is qualified to receive gratuitous health care services to a primary care physician or a general dentist for a medical assessment or examination and treatment, if appropriate, or to determine the necessity to refer such person to a medical or dental specialist for treatment.

C.(1) No pharmacist who gratuitously renders services in a community pharmacy shall be liable for any civil damages as a result of any act or omission in preparing, bottling, or supplying such pharmaceutical products, unless the damages were caused by the gross negligence or willful or wanton misconduct of the pharmacist.

(2) The provisions of this Subsection shall be applicable only if the community pharmacy posts, in a convenient and conspicuous place where persons entering the pharmacy will see it, a notice reading substantially as follows: "NOTICE - If you are harmed by medication which you receive here, you do not have the same legal recourse as you would have against other pharmacies." The notice shall be printed in type size sufficient to be easily read by persons upon entering the facility. Failure to keep such notice posted as provided negates the limitation of liability provided by this Subsection.

D. For purposes of this Section:

(1) "Community health care clinic" means a nonprofit organization qualified or eligible for qualification as a tax-exempt organization under 26 U.S.C. 501, which operates a medical clinic or which provides or arranges for services at the offices of a licensed health care provider solely for educational or charitable purposes, whose principal function is to supply or to make arrangements for the supply of the facilities, volunteer staff, and other support for the rendering of gratuitous medical or dental treatment.

(2) "Community pharmacy" means a nonprofit organization qualified or eligible for qualification as a tax-exempt organization under 26 U.S.C. 501, which operates a pharmacy solely for charitable purposes, whose principal function is to supply gratuitous pharmaceuticals.

(3) "Health care provider" means a clinic, person, corporation, facility, or institution which provides health care or professional services by a physician, clinic, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or psychiatrist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

(4) "Pharmacist" means a pharmacy, person, corporation, facility, or institution which supplies pharmaceuticals prepared or bottled, or both, by the pharmacists, and otherwise handled by any officer, employee, or agent thereof acting in the course and scope of his service or employment.

E. The provisions of this Section shall not apply to any health care provider rendering services covered by the provisions of R.S. 40:1299.39 et seq.

Acts 1995, No. 1230, §2; Acts 1997, No. 959, §1; Acts 1999, No. 1351, §1; Acts 2001, No. 577, §1; Acts 2004, No. 405, §1.

## **Mississippi**

**§ 73-25-37. Liability of physician, dentist, nurse, emergency medical technician, etc., for rendering emergency care.**

- (1) No duly licensed, practicing physician, 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.
- (2) (a) Any person who in good faith, with or without compensation, renders emergency care or treatment by the use of an automated external defibrillator (AED) in accordance with the provisions of [Sections 41-60-31](#) through [41-60-35](#), shall be immune from civil liability for any personal injury as a result of that 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 and the person's actions or failure to act does not amount to willful or wanton misconduct or gross negligence.
  - (b) The immunity from civil liability for any personal injury under subsection (2)(a) of this section includes the licensed physician who is involved with AED site placement, and the person who provides the CPR and AED training.
  - (c) The immunity from civil liability under subsection (2)(a) of this section does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.

**§ 73-25-38. Immunity from liability for physicians and certified nurse practitioners providing charitable medical care.**

- (1) Any licensed physician or certified nurse practitioner who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for said services shall be immune from liability for any civil action arising out of the provision of such medical or health services provided in good faith on a charitable basis. This section shall not extend immunity to acts of willful or gross negligence. Except in cases of rendering emergency care wherein the provisions of [Section 73-25-37](#) apply, immunity under this section shall be extended only if the physician or certified nurse practitioner and patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of payment and that the licensed physician or certified nurse practitioner shall be immune as provided in this subsection. The immunity from liability granted by this subsection also shall extend to actions arising from a church operated outpatient medical clinic that exists solely for the purpose of providing charitable medical services to persons who are unable to pay for such services, provided that the outpatient clinic receives less than Forty Thousand Dollars (\$40,000.00) annually in patient payments.
- (2) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under [Section 73-25-18](#) without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission

resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written or oral agreement for the physician to provide a voluntary noncompensated medical service before the rendering of the service by the physician.

- (3) Any physician who is retired from active practice, and who has been previously issued an unrestricted license to practice medicine in any state of the United States or who has been issued a special volunteer medical license under [Section 73-25-18](#), shall be immune from liability for any civil action arising out of any medical care or treatment provided while voluntarily serving as "doctor of the day" for members of the Mississippi State Legislature, legislative or other state employees, or any visitors to the State Capitol on the date of such service. This subsection shall not extend immunity to acts of willful or gross negligence or misconduct.

### **Tex. Civ. Prac. & Rem. Code § 74.001 (2003) Liability for Emergency Care**

(a) A person who in good faith administers emergency care, including using an automated external defibrillator, at the scene of an emergency but not in a hospital or other health care facility or means of medical transport is not liable in civil damages for an act performed during the emergency unless the act is wilfully or wantonly negligent.

(b) This section does not apply to care administered:

- (1) for or in expectation of remuneration; or
- (2) 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.

(c) If the scene of an emergency is in a hospital or other health care facility or means of medical transport, 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 wilfully or wantonly negligent, provided that this subsection does not apply to care administered:

- (1) by a person who regularly administers care in a hospital emergency room unless such person is at the scene of the emergency for reasons wholly unrelated to the person's work in administering health care; or
- (2) by an admitting or attending physician of the patient or a treating physician associated by the admitting or attending physician of the patient in question.

(d) For purposes of Subsections (b)(1) and (c)(1), a person who would ordinarily receive or be entitled to receive a salary, fee, or other remuneration for administering care under such circumstances to the patient in question shall be deemed to be acting for or in expectation of remuneration even if the person waives or elects not to charge or receive remuneration on the occasion in question.

(e) This section does not apply to a person whose negligent act or omission was a producing cause of the emergency for which care is being administered.