



**IN THE GENERAL ASSEMBLY
STATE OF _____**

An Act*

**To Protect Physicians from Civil Liability Arising from Health Care Provided
During a Disaster.**

1 Be it enacted by the People of the State of _____, represented in the
2 General Assembly:

3 **Section 1. Title.** This Act shall be known and may be cited as the “Act to Protect
4 Physicians from Civil Liability Arising from Health Care Provided During a Disaster.”

5 **Section 2. Purpose.** The legislature hereby finds and declares that:

- 6 a) When disasters strike, physicians are needed to treat the wounded and the
7 sick;
- 8 b) During a disaster, physicians practice under added duress because of
9 staffing shortages, resource limitations, and damaged infrastructure;
- 10 c) In order to encourage qualified physicians to participate in disaster
11 response efforts, physicians should be protected from civil liability claims
12 arising from such disaster-related care; and
- 13 d) Providing such protection to physicians is in the public interest because it
14 will encourage adequate disaster response efforts.

* This model bill may be used by states in two ways: 1) as a separate enactment or 2) as an amendment to the liability provision in the National Conference of Commissioners on Uniform State Laws Uniform Emergency Volunteer Health Practitioners Act.

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Section 3. Definitions.

a) “Disaster” is an event or condition that is declared to be a disaster by the federal government, the state government, or the local political subdivision of the state.

Drafting note: States considering this model bill should insert their current statutory definition for “disaster” or “emergency” or other similar term.

b) “Disaster response organization” means an entity that provides emergency or disaster relief services and that:

- 1) is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government, the state government, or a local political subdivision of the state; or
- 2) regularly plans and conducts its activities in coordination with an agency of the federal government, the state government, or a local political subdivision of the state.

c) “Health care services” are the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to a disaster, including:

- 1) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or

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function of the body:

- i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and
 - ii) counseling, assessment, procedures, or other services;
- 2) sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and
 - 3) funeral, cremation, cemetery, or other mortuary services.

d) “Qualified physician” means:

- 1) an individual who has received a “Doctor of Medicine” or “Doctor of Osteopathy” degree following successful completion of a prescribed course of study from a school of medicine or osteopathy;
- 2) an individual who is licensed as a physician under the laws of this or another state to provide health care services; and
- 3) an individual who:
 - i) is registered with a disaster response organization;
 - ii) is deployed by a disaster response organization;
 - iii) practices in the disaster area on a temporary or permanent basis; or
 - iv) is deemed by an agency of the federal government, the state government, or a local political subdivision of the state as a qualified physician.

Drafting note: If a state has a preexisting system in place that extends liability protections to various classes of disaster responders, then the state may replace subsections (3)(i), (3)(ii), (3)(iii), and (3)(iv) with that statutory provision.

56 **Section 4. Requirements.**

57 a) Subject to subsection (c), a qualified physician who provides health care
58 services during a declared disaster shall not be liable for damages for an
59 act or omission in providing those health care services.

60 b) No person or entity is vicariously liable for damages for an act or omission
61 of a qualified physician if the physician is not liable for the damages under
62 subsection (a).

63 c) This section does not limit the liability of a qualified physician for acts or
64 omissions constituting malicious intent, wanton disregard for a patient's
65 well being, or similar willful misconduct.

66 d) A claim relating to subsection (c) must be proven by clear and convincing
67 evidence.

68 **Section 5. Effective Date.** This Act shall become effective immediately upon
69 being enacted into law.

70 **Section 6. Severability.** If any provision of this Act is held by a court to be
71 invalid, such invalidity shall not affect the remaining provisions of this Act, and to this
72 end the provisions of this Act are hereby declared severable.

Adopted 11-2007