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By Diane McDevitt and Meaghan McDevitt

A Primer on the Good Samaritan Act

ABSTRACT: *This article explores the various legal and ethical facets for healthcare professionals to consider in order to avoid legal liability when rendering aid in an emergency. A general overview of Good Samaritan legislation enacted throughout the United States is discussed along with varying levels of assistance required or protected by law in selected states. Moral considerations for Christian nurses are addressed.*

KEY WORDS: *emergency care, Good Samaritan Act, law, nursing*



Diane McDevitt, MS, RN, ACNS-BC, ANP, is an associate professor at Kingsborough Community College in Brooklyn, NY. She is also employed as an assistant director of nursing at a Level 1 trauma center (Richmond University Medical Center, Staten Island, NY).



Meaghan McDevitt, BSN, RN, is an emergency department nurse (adult and pediatric) at Richmond University Medical Center, Staten Island, NY. The authors declare no conflict of interest. Accepted by peer review 06/25/2020.

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INTRODUCTION

Safety is always a priority for nurses and healthcare professionals. Working in one's place of professional practice lends itself to familiarity with the institution's internal policies and a certain comfort level. But what protection is afforded to nurses when, in good faith, they render emergency assistance outside their workplace?

Consider the following scenarios: Are nurses considered liable in any of the situations listed below?

- 1) *A nurse volunteers at a church camp where a child has an allergic reaction after eating nuts. The child has an EpiPen which the nurse administers; the EpiPen malfunctions and medication does not inject. The child's condition worsens. Can the nurse be held liable for administering injectable medication that malfunctions?*
- 2) *A nurse is offered the opportunity to attend a local festival and provides nursing services at the event. A bystander asks the nurse for advice on a recent leg injury. The nurse advises warm*

compresses and topical antibiotics. Subsequently, the injury becomes infected and requires surgery. Did the nurse act within the purview of the law? Can the nurse be held accountable for gross negligence?

- 3) A nurse enters the hospital lobby as a person collapses in front of the gift shop. The nurse asks security to call for a “rapid response” and the individual is placed on a stretcher and transported to the emergency department for evaluation. Did the nurse adhere to facility policies on employees rendering assistance?

THE GOOD SAMARITAN ACT

The concept of a Good Samaritan stems from the biblical parable in Luke 10:30–37. This narrative describes how a stranger traveling from the region of Samaria stopped to assist an injured man of a different religious and ethnic background, without any desire for payment or reward. This allegory is present in both the Bible and the Qur’an, the religious text of Islam, encouraging followers to lend a hand to those in need, even if those receiving help are not in a position to reciprocate.

The underlying principle of the Good Samaritan Act works similarly—it allows would-be rescuers to aid persons in medical need without the risk of legal consequences for untoward results when prudent and usual care is rendered. This act supports individuals, particularly healthcare professionals, who provide aid to strangers in need (Barbi, 2020; Mackay & Starr, 2019; West & Varacallo, 2019). For Christians, the motive of coming to another’s aid is clear in Jesus’ words in Luke 10:27: “‘Love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind’; and, ‘Love your neighbor as yourself’” (NIV).

WHEN TO RENDER CARE

Currently, two conditions ordinarily must be met to satisfy a Good Samaritan law’s provisions: (1) the assistance must be given at the scene of the emergency, and (2) the law’s protection will not apply if the volunteer has other intentions, such as payment or a reward.

Legally speaking, a Good Samaritan is an individual who voluntarily renders aid to an injured person in an emergency. West and Varacallo (2019) explain that consent should be obtained before administering aid if the victim is conscious and responsive. In the event the victim is unconscious, implied consent is assumed.

Generally, nurses who render assistance in an emergency without compensation shall not be held liable for acts or omissions performed in good faith (West & Varacallo, 2019). Nurses must be mindful that the emergency services they provide not exceed their scope of practice, and that they must render assistance that cannot be considered reckless or grossly negligent. Additionally, an act of assistance should not constitute willful misconduct.

What protection is afforded to nurses when, in good faith, they stop and render emergency assistance?

Therefore, a nurse who renders care beyond that nurse’s scope of practice will not be covered under a Good Samaritan law (West & Varacallo, 2019). Nelson (2017) points out that nurses must be cognizant of their competencies, knowledge, and expertise when rendering aid, carefully assessing the situation and acting in a rational manner.

Once a nurse or provider stops to assist, they must remain at the scene until care of the individual is turned over to a qualified provider such as an emergency medical technician or paramedic. Burkholder and King (2016) found that, among emergency physicians, the most common instances of spontaneously assisting with medical emergencies were during entertainment/sports events (25%), road traffic collisions (21%), and wilderness situations (19%).

Crucial facets of Good Samaritan laws are as follows: (1) care is given due to an emergency situation; (2) the individual performing the care did not cause the initial injury; and (3) the care

given in the emergency is not negligent or careless.

Providing care within the institution where one works does not fall within the realm of a Good Samaritan law as there is a presumed hospital–employee relationship; employees are obligated to act within internal agency policies. In addition, healthcare professionals who volunteer at community events may not be protected by Good Samaritan laws unless the aid was rendered in an emergency. Professional liability insurance or malpractice insurance should be considered for events that involve volunteering within the community, camp, sports clinic, and the like (Huneck, 2020).

As nurses, we strive to practice in an ethical and moral way within the guidelines of our profession. Nurses need to remember the principle of nonmaleficence or “do no harm”; this is applicable when approaching strangers in need of emergency care. The principle of beneficence encompasses “acts of mercy, kindness and charity,” which speak to the duty we have toward fellow humans and society as a whole (Beauchamp & Childress, 2009, p. 166).

LEGISLATION VARIES

In 1959, California was the first state to enact Good Samaritan Act legislation. Every state now has Good Samaritan laws (Mackay & Starr, 2019; Matt, 2018). However, the law differs in regard to what types of medical professionals are protected under the law and to what extent aid is considered nonnegligent, particularly if medical professionals are performing services beyond their professional competency. Nurses need to investigate the law in their own state.

Generally, Good Samaritan laws do not cover professionals when they are at their place of employment; rather, rendering emergency care is considered part of the job (Rathner, 2019). It is interesting to note that some states may incorporate hospital practice into their legislation. However, conversely, for certain hospitals, such as those in New Jersey, protection stops at the door of the hospital (Matt, 2018). Nurses must educate themselves on specific guidelines within their institutions.

Sidebar: Key Points for Action

- Stay within your professional scope of practice.
- Activate the emergency response system—call 911.
- Obtain consent to assist if the individual is alert and conscious.
- Focus on the immediate needs of the individual.
- If providing first aid, use the ABCs of basic life support.
- Stabilize the individual until medical help arrives.
- Once EMS personnel arrive, inform them of your actions.
- Turn the individual's care over to the emergency personnel.
- Know your state's legislation regarding liability for rendering care in an emergency.

Nurses who take on responsibility to aid injured people can rely on individual state laws that prohibit civil penalties against individuals who provide care during an emergency, absent any clear negligence or misconduct.

For example:

- California's Good Samaritan Law (California Health and Safety Code § 1799.102) states that “[n]o person who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission.”
- The State of Alabama's Good Samaritan Law (§ 6-5-322) provides immunity to trained and nontrained responders during an emergency. This law also protects a healthcare professional from liability if the healthcare worker chooses not to render aid.

A common misconception is that nurses must stop and render assistance at an emergency; this is not true in many states. Choosing to stop generally is considered an ethical decision rather than a legal mandate. A nurse's

knowledge and skills may help at the emergency; however, one is not required to stop and assist (Mackay & Starr, 2019). Legislation in Vermont, Rhode Island, and Minnesota obligates healthcare professionals to give aid to persons in need. These are commonly referred to as “duty to rescue” laws. This duty may amount to simply calling 911 when someone is observed who needs medical assistance. Failure to give aid in these three states can result in fines or a misdemeanor charge (Fifield, 2017; Mackay & Starr, 2019; Rathner, 2019).

Some states have enacted Good Samaritan laws for specific types of emergencies. Parker et al. (2018) reported that in 2018, 40 states had instituted Good Samaritan laws related to opioid emergencies. For example, the New York State 911 Good Samaritan Law allows individuals who are overdosing on drugs or alcohol to call 911 for emergency services without fear of arrest. This law also encourages anyone witnessing an overdose to call 911 (New York State Department of Health, 2019).


Legal and ethical implications illustrated in the vignettes at the beginning of this article demonstrate the diversity of potential scenarios in which a nurse might consider that actions are covered under Good Samaritan laws. In the first vignette, a nurse must understand that volunteering at a church camp does not constitute an emergency situation

or an accident. Although it is commendable to volunteer one's services, a nurse must be cognizant that the Good Samaritan law will probably not cover the incidents that could occur while volunteering at events (West & Varacallo, 2019). The respective organization (i.e., camp) may offer legal protection; nurses should inquire about appropriate liability insurance policies before offering their services and have a clear understanding of the volunteering duties. Once a nurse agrees to act as a volunteer, it is prudent to check that all equipment is in working order and necessary supplies are available.

Nurses may be protected in some instances through professional malpractice liability insurance; however, exclusions within the policy may exist. Additionally, though the nurse may be employed at a hospital, volunteering at a camp is not within the scope of employment. Therefore, under the doctrine of *respondet superior*, the hospital cannot be held accountable for acts performed at the camp (Grant & Ballard, 2017).

Giving medical advice, as illustrated in vignette 2, would typically not be covered under a Good Samaritan law. The prudent action for the nurse is to suggest that the person seek medical care from their own provider. According to Nelson (2017), if a nurse gives incorrect advice, or if there are adverse effects, the nurse could be held liable. Willful misconduct or omissions would





Web Resources

- **Association of State and Territorial Health Officials: Emergency Volunteer Toolkit—**
<https://www.astho.org/Programs/Preparedness/Public-Health-Emergency-Law/Emergency-Volunteer-Toolkit/Volunteer-Protection-Acts-and-Good-Samaritan-Laws-Fact-Sheet/>
- **Nurse.org—**
<https://nurse.org/articles/off-duty-nursing-dilemma/>

of negligent care if the volunteer's actions result in illness or further injury.

Attention should be focused on the immediate symptoms and stabilization, not on trying to diagnose problems. Care should be consistent with training received in a basic life support class, such as using the ABCs to prioritize actions. (See Sidebar: Key Points for Action.) Generally, Good Samaritan laws consider that a provider-patient relationship is established once a healthcare professional begins to render care, so remain with the person until emergency medical help arrives.

Bystanders can be asked to help but are not obligated to do so. Keep in mind there is no need to declare one's professional credentials at the scene. Once medical personnel arrive with equipment, inform the first responders of interventions provided, if any, and ensure that medical personnel are assuming responsibility for the individual (Mackay & Starr, 2019).


Nurses should consider becoming involved in active lobbying efforts to advocate for a unified federal statute to minimize disparities about Good Samaritan laws among the various states. To encourage national Good Samaritan legislation, write to your state representatives or congressional members. A sample letter is found online as supplemental digital content (SDC) at <http://links.lww.com/NCF-JCN/A79>.

Christian nurses need to reflect on the ethical and spiritual factors of providing assistance to someone in need. By selflessly rendering assistance to others, Christians vividly demonstrate loving our neighbors and thus, loving God. Ultimately, we answer to God for our actions. Remember that Christian teachings that guide everyday life may not offer legal protection for nurses who act in the event of a medical emergency outside their workplace.

CONCLUSION

By nature and training, nurses may feel a moral and ethical obligation to stop at the scene of an emergency. Jesus' parable of the Good Samaritan illustrates that aiding a person in distress exemplifies love for others as a response to God's love for us.

Good Samaritan laws were developed to protect individuals who give

aid, but these laws do not provide an ironclad guarantee against liability if an adverse consequence occurs due to actions performed. Nurses should learn and stay updated about the laws of their state to practice competently and safely in their jurisdiction. 

be excluded from protection as well (Matt, 2018).

Even advanced practice nurses with prescriptive privileges need to follow established standards of care that do not include giving offhand advice without a proper examination and appropriate documentation. Gross negligence may be considered if a reasonable amount of care was not used and a serious injury occurred to the person (West & Varacallo, 2019).

In vignette 3 at the beginning of this article, the nurse appears to follow common hospital policy and assists the person to receive immediate, urgent care. Thus, the nurse acted in a reasonable way to optimize the person's well-being in a timely manner. In contrast, some hospital policies may require any person in the hospital walkway or lobby be brought directly to the emergency department. Nurses working in healthcare organizations should familiarize themselves with policies that are usually explained during orientation and available through hospital administration. Questions on policies and procedures can be directed to respective unit managers, nursing education department personnel, and risk/legal department staff.

PRACTICE IMPLICATIONS

At the very least, in the event of an emergency scenario, anyone, including nurses, should call for emergency help (Mackay & Starr, 2019). Nurses who choose to help an injured victim must adhere to current standards of nursing practice and may be held civilly liable for negligence or care inconsistent with the practice of nursing (Mackay & Starr). Negligence could result in a civil claim

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Note: This article, while giving a general overview of Good Samaritan Laws throughout the United States, does not purport to be formal legal advice. The *Journal of Christian Nursing* encourages all nurses to seek advice from an attorney when confronted with individual liability issues. Nurses may also want to review their individual professional liability and/or malpractice insurance to determine whether their insurance policies cover emergency care situations, including those described in the article.