

TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 10-52

H. B. NO. 10-191, HS1

FIRST REGULAR SESSION, 1996

AN ACT

To limit liabilities for civil damages resulting from a person or professional's acts or omissions when rendering emergency care in good faith; and for other purposes.

BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Title. This Act may be cited as “The Commonwealth Good Samaritan Act.”

Section 2. Findings and Purpose. The Legislature finds and declares that a threat to the public health and safety exists whenever there is a need for emergency services and that public entities, emergency rescue personnel and professionals, and private citizens should be encouraged to provide emergency services. To that end, a qualified immunity from liability is hereby provided by law for public entities, emergency rescue personnel and professionals, and private citizens providing emergency services.

Section 3. Definitions.

a) When used in this Act, the terms EMT-B (emergency medical technician-basic), EMT-I (emergency medical technician-intermediate), and EMT-P (emergency medical technician-paramedic) are to be interpreted as those terms are defined by the Federal Department of Transportation in regard to national standard criteria for such positions.

b) When used in this Act, the term “nurse” means a registered nurse (RN), as the term registered nurse is defined in the CNMI Nurse Practice Act, as that act may be amended after the effective date of this Act in relation to the definition of a registered nurse.

c) When used in this Act, the term “physician” or the term “surgeon” means a medical doctor (MD) or a doctor of osteopathy (DO) that is US licensed in such capacity.

d) When used in this Act, the term “gross negligence” shall mean the performing or failing to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another.

e) A person is considered to act in “good faith”, when that term is used in this Act, unless they act or fail to act with regard to a manifest duty, with malice, or, with wanton or willful disregard of the consequences as affecting the life or property of another.

Section 4. Statutory Liability Limitations

A) Training Programs. In order to encourage government agencies and other organizations to train people in emergency medical services, no government agency or entity, or other public or private organization which sponsors, authorizes, supports, finances, or

supervises the training of people, or licenses or certifies those people, in emergency medical services, shall be liable for any civil damages alleged to result from those training programs.

B) Persons rendering emergency care at emergency scene for no compensation. Any person who renders emergency care, not for compensation, at the scene of an emergency shall only be liable in civil damages resulting from acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. For the purposes of this subpart, “not for compensation” includes but is not limited to, any physician, nurse, EMT of any level, firefighter, or any law enforcement officer, or any person who is employed or is a volunteer in law enforcement, firefighting, or the health care profession, who at the time of rendering emergency care under this subpart is off-duty from such employment or volunteer work.

C) Physicians or nurses giving emergency instructions; EMT-B, EMT-I, EMT-P.

1) No physician who in good faith gives emergency instructions to an EMT-B, EMT-I, or EMT-P at the scene of an emergency, shall be liable for any civil damages as a result of issuing the instructions, unless such instructions are made with negligence as negligence is determined in subpart G of this Section for such professionals.

2) No EMT-B, EMT-I or EMT-P rendering care within the scope of his duties who, in good faith and in a nonnegligent manner, follows the instructions of a physician shall be liable for any civil damages as a result of following such instructions.

D) Firefighters, law enforcement officers, emergency medical technicians; employing agencies. In order to encourage the provision of emergency medical services by firefighters, police officers or other law enforcement officers, EMT-B, EMT-I, or EMT-P, a firefighter, police officer or other law enforcement officer, EMT-B, EMT-I, or EMT-P who renders emergency medical services at the scene of an emergency shall only be liable in civil damages for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. A public agency employing such a firefighter, police officer or other law enforcement officer, EMT-B, EMT-I, or EMT-P shall not be liable for civil damages if the fire firefighter, police officer or other law enforcement officer, EMT-B, EMT-I, or EMT-P is not liable.

E) Emergency services; public entities and emergency rescue personnel. Neither a public entity nor emergency rescue personnel shall be liable for any injury caused by an action taken by the emergency rescue personnel acting within the scope of their employment to provide emergency services, unless the action taken was performed in a bad faith or in a grossly negligent manner.

1) For purposes of this subpart, it shall be presumed that the action taken when providing emergency services was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

2) For purposes of this subpart, “emergency rescue personnel” means any person who is a firefighter, policy officer or other law enforcement officer, EMT-B, EMT-I, or EMT-P, of the federal government, the CNMI government, or local government, or other public or municipal corporation or political subdivision of this

the CNMI, whether such person is a volunteer or partly paid or fully paid, while he is or she is actually engaged in providing emergency services as defined in this subpart.

3) For purposes of this subpart, “emergency services” includes, but is not limited to, first aid and medical services, rescue procedures and transportation, or other related activities necessary to insure the health or safety of a person in imminent peril.

F) Persons certified to provide prehospital emergency field care treatment. Any person who has a certificate or license issued by U.S. jurisdiction government agency or authority to provide prehospital emergency field care treatment at the scene of an emergency, as defined in subpart “B” of this section, shall be liable for civil damages only for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith.

G) Negligence actions against physicians, surgeons, nurses, and EMT's.

1) In any action for damages involving a claim of negligence against a physician, surgeon, nurse, EMT-B, EMT-I, or EMT-P, arising out of emergency medical services provided in a general acute care hospital or clinical emergency department, or, arising from emergency medical services provided at the scene of an emergency, the trier of fact shall consider, together with all the other relevant matters, the circumstances constituting the emergency, and the degree of care and skill ordinarily exercised by reputable members of the physician, surgeon, nurse, EMT-B, EMT-I, or EMT-P's profession, respectively, in the same or similar locality, in like cases, and under similar emergency circumstances.

2) For the purposes of this subpart, “emergency medical services” and “emergency medical care” means those medical services required for the immediate diagnosis and treatment of medical conditions which, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death.

3) In any action for damages involving a claim of negligence against a physician, surgeon, nurse, EMT-B, EMT-I, or EMT-P providing emergency medical services for a general acute care hospital or clinical emergency department, or arising from emergency medical services provided at the scene of an emergency, the court shall admit expert medical testimony only from physicians, surgeons, nurses, EMT-B, EMT-I, or EMT-P, who have had substantial professional experience within the last five years while assigned to provide emergency medical coverage either in a general acute care hospital or clinical emergency department, or, providing emergency medical services at the scene of emergencies. For purposes of this section, “substantial professional experience” shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in either general acute care hospital and clinical emergency departments or as it is provided at the scene of emergencies, in the same or similar localities where the alleged negligence occurred.

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed

as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 19th day of March, 1997

/s/ Froilan C. Tenorio
FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands