

Malpractice Liability During Pandemics

This Act protects health care providers from malpractice liability when they respond to a natural disaster, pandemic event, or bioterrorism unless the health care provider is grossly negligent; caused the emergency; or has engaged in criminal conduct. This Act applies the limited liability protections to a health care provider even if the provider has a duty to respond or the provider has an expectation of payment or remuneration.

Submitted as:

Utah

SB 153

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Address Malpractice
2 Liability During a Pandemic Event.”

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Section 2. [*Definitions.*] As used in this Act:

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(1) (a) “Emergency” means an unexpected occurrence involving injury, the threat of
6 injury, or illness to a person or the public due to:

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(i) a natural disaster;

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(ii) bioterrorism;

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(iii) an act of terrorism;

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(iv) a pandemic; or

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(v) other event of similar nature.

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(b) “Emergency care” includes actual assistance or advice offered to avoid,
13 mitigate, or attempt to mitigate the effects of an emergency.

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(c) “Person” means as defined in [insert citation].

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(2) (a) A person, who in good faith, assists governmental agencies or political
16 subdivisions with the activities described in [Subsection (2)(b)] is not liable for civil damages or
17 penalties as a result of any act or omission unless the person rendering the assistance:

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(i) is grossly negligent;

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(ii) caused the emergency; or

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(iii) has engaged in criminal conduct.

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(b) The following activities are protected from liability in accordance with
22 [Subsection (2)(a)]:

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(i) implementing measures to control the causes of epidemic, pandemic,
24 communicable diseases, or other conditions significantly affecting public health, as necessary to
25 protect the public health in accordance with [insert citation];

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(ii) investigating, controlling, and treating suspected bioterrorism or
27 disease in accordance with [insert citation]; or

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(iii) responding to:

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(A) a national, state, or local emergency;

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(B) a public health emergency as defined in [insert citation]; or

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(C) a declaration by the President of the United States or other

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federal official requesting public health related activities.

33 (c)[Subsection (2)(a)] applies to a person even if that person has:
34 (i) a duty to respond; or
35 (ii) an expectation of payment or remuneration.
36 (3) The immunity in [Subsection (2)] is in addition to any immunity protections that may
37 apply in state or federal law.
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39 Section 3. [*Severability.*] [Insert severability clause.]
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41 Section 4. [*Repealer.*] [Insert repealer clause.]
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43 Section 5. [*Effective Date.*] [Insert effective date.]