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.)

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

Section 2. [Definitions.] As used in this Act:
(1) (a) “Emergency” means an unexpected occurrence involving injury, the threat of injury, or illness to a person or the public due to:
(i) a natural disaster;
(ii) bioterrorism;
(iii) an act of terrorism;
(iv) a pandemic; or
(v) other event of similar nature.
(b) “Emergency care” includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.
(c) “Person” means as defined in [insert citation].
(2) (a) A person, who in good faith, assists governmental agencies or political subdivisions with the activities described in [Subsection (2)(b)] is not liable for civil damages or penalties as a result of any act or omission unless the person rendering the assistance:
(i) is grossly negligent;
(ii) caused the emergency; or
(iii) has engaged in criminal conduct.
(b) The following activities are protected from liability in accordance with [Subsection (2)(a)]:
(i) implementing measures to control the causes of epidemic, pandemic, communicable diseases, or other conditions significantly affecting public health, as necessary to protect the public health in accordance with [insert citation];
(ii) investigating, controlling, and treating suspected bioterrorism or disease in accordance with [insert citation]; or
(iii) responding to:
(A) a national, state, or local emergency;
(B) a public health emergency as defined in [insert citation]; or
(C) a declaration by the President of the United States or other federal official requesting public health related activities.
(c) [Subsection (2)(a)] applies to a person even if that person has:

(i) a duty to respond; or

(ii) an expectation of payment or remuneration.

(3) The immunity in [Subsection (2)] is in addition to any immunity protections that may apply in state or federal law.

Section 3. [Severability.] [Insert severability clause.]

Section 4. [Repealer.] [Insert repealer clause.]

Section 5. [Effective Date.] [Insert effective date.]