

Liability

26A-1-126. Medical reserve corps

(1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section. (2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health related activities. (3) When an emergency has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency. (4) For purposes of this section, a medical reserve corps may include persons who: (a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice, (b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and (c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active. (5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declared emergency. (b) A person operating as a member of an activated medical reserve corps under this section: (i) shall be volunteering for and supervised by the local health department; (ii) shall comply with the provisions of this section; (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and (iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency. (6) The local department of health may access the Division of Occupational and Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing. (7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Occupational and Professional Licensing.

Provisions of Good Samaritan Statues during Emergency Situations

A person who renders emergency care at or near the scene of, or during an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency. A person who gratuitously, and in good faith, assists governmental agencies or political subdivisions is not liable for any civil damages or penalties as a result of any act or omission unless the person rendering assistance is grossly negligent in responding to a national, state, or local emergency, a public health emergency, or a declaration by the President of the United States or other federal official requesting public health-related activities.

Uniform Emergency Volunteer Health Practitioners Act

Utah has enacted a uniform emergency volunteer health practitioners act, which aims to establish a robust and redundant system to quickly and efficiently facilitate the

deployment and use of licensed to provide health and veterinary services in response to declared incidents of disasters and emergencies. This act (1) establishes a system for the use of volunteer health practitioners capable of functioning autonomously even when routine methods of communication are disrupted, 2) provides reasonable safeguards to assure that health practitioners are appropriately licensed and regulated to protect the public's health, and (3) allows states to regulate, direct and restrict the scope and extent of services provided by volunteer health practitioners to promote disaster recovery operations.

Charitable Immunity

Under Utah Code Ann. § 78-19-3, a nonprofit is not liable for damage or injury that was caused intentional or knowing act of a volunteer which constituted illegal, willful or wanton misconduct, unless the nonprofit should have had reasonable notice of the volunteer's unfitness to provide services under circumstances that make the organization's use of the volunteer reckless or wanton. A non-profit organization is also not liable where under the law a business employer would not be liable for an employee.

Non-profit volunteers

Utah Code Ann. § 78-19-2, A volunteer for a non-profit organization, including directors, officers, and trustees, does not incur any legal liability for an act or omission while providing services for the non-profit. A volunteer does not incur any personal financial liability for a tort claim or other action. This applies if the volunteer acted in good faith and reasonably believed they acted in the official scope of duty. Exceptions: damage or injury was caused intentional or knowing act of the volunteer that constituted illegal, willful or wanton misconduct. The protection from liability does not apply if the injuries resulted from operation of a motor vehicle, vessel or aircraft or other vehicle for which a license is needed, when the suit is brought by a government official to enforce a law, where the non-profit organization fails to provide a financially secure source of recovery for the harmed individual. However, the nonprofit organization is not under a duty to provide a financially secure source of recovery. The granting of immunity to volunteers has no effect on the liability of the non-profit organization providing the source of recovery.

Good Samaritan medical volunteers

Utah Code Ann. § 26-8a-601

The following people are not liable for civil damages as a result of acts or omissions in rendering emergency care: A licensed physician, physician's assistant, or registered nurse who, without compensation, gives good faith, oral instructions to a certified person permitted to use an automatic external defibrillator. An individual certified pursuant to § 26-8a-302, a licensed physician, physician's assistant, or registered nurse who, without compensation and in good faith, provides emergency medical instructions or renders authorized emergency medical care. A person certified under §26-8a-308 who uses an automatic defibrillator in providing emergency care. Exceptions: gross negligence or willful misconduct.

Utah Code 26-8a-302

A principal, agent, contractor, employee or representative of an agency, organization, institution, or government entity that sponsors any functions of an individual certified under is not liable for an act or omission in connection with the certified individual that relates to the training, or where the act or omission occurred outside of a hospital where a patient's life was in immediate danger, unless the act or omission was inconsistent with the individual's training. Exceptions: gross negligence or willful misconduct.

Utah Code § 78-11-22, Good Samaritan Act

A person who in good faith and without compensation renders emergency care at the scene of or during an emergency is not liable for civil damages or penalties resulting from an act or omission in rendering care.

Exceptions: the volunteer is grossly negligent or caused the emergency.

Utah Code Ann. § 58-13-3

A properly licensed health care provider who provides health care without compensation at a health care facility is not liable in a malpractice suit. Exceptions: acts or omissions of the health care provider that are grossly negligent or willful and wanton. Before rendering services, the health care professional must disclose in writing to a patient, or to a parent in the case of a minor, that the health care provider is providing service without compensation and thus is protected from liability.

A health care facility sponsoring uncompensated health care is not liable in a malpractice suit for acts or omissions if it did not receive compensation, and posted notice in a conspicuous place that the facility is not liable except for acts or omissions that are grossly negligent or willful and wanton. Immunity under this section does not apply to use of general anesthesia or care that requires an overnight stay in a hospital.

Government Immunity Act of Utah 63G-7-202

(1) (a) Nothing contained in this chapter, unless specifically provided, may be construed as an admission or denial of liability or responsibility by or for a governmental entity or its employees. (b) If immunity from suit is waived by this chapter, consent to be sued is granted, and liability of the entity shall be determined as if the entity were a private person. (c) No cause of action or basis of liability is created by any waiver of immunity in this chapter, nor may any provision of this chapter be construed as imposing strict liability or absolute liability. (2) Nothing in this chapter may be construed as adversely affecting any immunity from suit that a governmental entity or employee may otherwise assert under state or federal law. (3) (a) Except as provided in Subsection (3)(c), an action under this chapter against a governmental entity for an injury caused by an act or omission that occurs during the performance of an employee's duties, within the scope of employment, or under color of authority is a plaintiff's exclusive remedy. (b) Judgment under this chapter against a governmental entity is a complete bar to any action by the claimant, based upon the same subject matter, against the employee whose act or omission gave rise to the claim. (c) A plaintiff may not bring or pursue any civil action or proceeding based upon the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim, unless: (i) the employee acted or failed to act through fraud or willful misconduct; (ii) the injury or damage resulted from

the employee driving a vehicle, or being in actual physical control of a vehicle: (A) with a blood alcohol content equal to or greater by weight than the established legal limit; (B) while under the influence of alcohol or any drug to a degree that rendered the person incapable of safely driving the vehicle; or (C) while under the combined influence of alcohol and any drug to a degree that rendered the person incapable of safely driving the vehicle; (iii) injury or damage resulted from the employee being physically or mentally impaired so as to be unable to reasonably perform the employee's job function because of: (A) the use of alcohol; (B) the nonprescribed use of a controlled substance as defined in Section 58-37-4; or (C) the combined influence of alcohol and a nonprescribed controlled substance as defined by Section 58-37-4; (iv) in a judicial or administrative proceeding, the employee intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry under this section; or(v) the employee intentionally or knowingly.