

な基準について判断するのが重要な問題である。

翻って、緊急医療要請に応えた非番の医師は、一体、どの法を犯して「違法性の阻却」に値するのだろうか？

#### ⑥航空会社の契約責任

航空会社や鉄道会社は、旅客を目的地まで安全に搬送する責任を契約している。しかし、旅客の健康に対する安全配慮もこの契約責任に付随した責任としているのだろうか。

さらに、緊急医療要請に応じた医師の判断や助言が適切でなかった（あるいは結果が良くなかった）場合、彼らは当該医師に対して賠償請求をするのか、しないのか？ 緊急医療要請と医師との議論はしばしば行われたが、この問題については全く触れられていない。

米国では緊急医療要請については、旅客が死亡しても医師の行為を保障すると明記されているが、我が国では要請応じた医師（あるいは看護師）の責任とされていると聞く。もしこれが事実なら、我が国の航空機では遺族側と航空会社側との双方から訴訟を起こされる可能性があり、緊急医療要請に応じることは自殺行為に近いと言わざるを得ない。

#### 故意の過失と意図しない過失

公共の場で緊急医療要請に、医師法 19 条の応召義務が成立するか、対応した医師と乗客 X 氏の間には契約関係が成立するか、などは医療過誤や債務不履行責任に根拠を与える基本認識であるが、確定した見解は示されていない。しかし、幸いにも緊急医療要請に応じた非番の医師が医療過誤や賠償責任を問われた判例は存在しない。

これは民法の緊急事務管理や刑事法の違法性阻却事由の緊急避難が法的な支えになっていることは間違いない。これと同等かそれ以上に、我が国には緊急医療要請に応える医師の行為を善とし、責任を問わない国民的合意が存在するためと考えられる。

しかし、医療現場では些細な誤解や説明不足、あるいは気持ちのすれ違いから損害賠償責任や業務上過失致死罪を問う訴訟が増えている。不治の病であっても、自己損傷であっても、期待した結果にならなければ暴言を持って詰り、暴力をふるい、訴訟に及ぶ市民が増えてきた。このため救急部門や産科・小児科を選択しない若い医師や看護師は少なくなっている。また、暴力に遭いうつ状態に陥る医師・看護師も珍しくない。

このような世相を鑑みると「緊急医療要請に応える医師の責任を問わない国民的合意」は、早晚崩れると思わざるを得ない。さらに、緊急事務管理や緊急避難の法的抑止は、国民的合意が成立している間は有効であるが、飽く迄も筋交いであり軸柱ではない。国民的合意にほころびが生じると抑止力を失う。その時までには、免責の本柱である「善きサマリア人法」が不可欠である。例え、緊急医療要請に応じた医師に過失があったとしても、それが意図しない過失である限り、刑事責任や賠償責任を問うのではなく、技量が不足なら訓練の機会を与え、動作に問題があるなら適切な指導を行うなど、積極的な改善に向けた法的、社会的枠組みの構築を切望してやまない。

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## コメント 4

### 緊急医療要請に阻害要因としての搭載救急医薬品及び医療用具の現状

武田 聡

#### 1、 航空機内でのドクターコールと救急医薬品及び医療用具が必要な頻度

沼田ら<sup>1)</sup>は、日本航空インターナショナルが2001年度から2004年度の期間内に運航した航空機の客室内で発生した傷病数、その際に援助にあたった医療従事者数、使用された医薬品の種類と使用例数について、客室乗務員から提出された傷病人発生記録、診療記録を用い年度毎に集計し、結果を報告している。2001年度から2004年度までに発生した傷病者数は国際線では年間289～393例、国内線では年間81～134例。医師または看護師より援助を受けた傷病数は、国際線では217～247例、そのうち医師のみの援助からは51.1～58.9%、医師および看護師からの援助は17.5～26.2%、看護師のみからの援助は17.5～22.1%で、全援助率は93.5～96.4%。同様に、国内線では42～57例、医師のみでは32.6～54.7%、医師および看護師では15.5～24.6%、看護師のみでは22.6～38.8%で、全援助率は89.5～93.8%。98年度の日本航空の1日あたりの運航実績は、国際線243便国内線129便、1年間で国際線88695便国内線44895便とされている。ドクターコールの頻度をこの運行実績から計算すると、国際線では約1000フライトに1回、国内線では2000フライト強に1回ということになり、頻度としては少ない。しかし全てのドクターコールのうち、搭載医療資機材であるドクターズキットが使用されたのは、国際線では22.2～36.8%、国内線では12.8～18.4%、全体では21.3～34.0%とのことで、ドクターコールの1/4-1/3でドクターズキットが使用されたことになる。さらに我々の検討<sup>2)</sup>でも、2001年から2007年の日本航空インターナショナルで使用されたAEDデータでも、32例の機内での心肺停止が記録されており、これらの症例の機内での自己心拍再開は25%のみであった。

また運輸省の調査<sup>3)</sup>でも、平成6年から8年までの3年間に大手航空三社の国際線で急病人が出て、乗り合わせた医師に協力を求めた400件のうち40%余りに当たる170件でこうした医薬品が患者の初期治療に使われたとしている。

このように頻度は少ないとしても、一定頻度で必ず心肺停止等の重症症例が発生しており、ドクターコールが行われたときにドクターズキットが使用される頻度は高く、搭載資機材は不可欠であることは言うまでもない。

#### 2、日本の航空会社の航空機に搭載されている救急医薬品及び医療用具の実際

国際線と国内線の違い航空機（特に国際線）は、緊急時にすぐに着陸して患者さんが専門的な処置を受けることができない。このため相当数の資機材が必要となる。平成12年の通達空事第11号空航第62号<sup>4)</sup>に基づき、座席数が60席を超える航空機には定められた救急医薬品及び医療用具を搭載することが義務付けられており、各航空会社は医薬品及び医療用具を旅客機に搭載している。

##### 1) ドクターキット資機材の内容

協力を申し出た医療関係者の方々が適切な処置がおこなえるように、日本航空では1993年のドクターキット搭載以来、機内医薬品・医療品の充実を計ってきた。また、機内での救急救命体制をさらに強化する目的で、2001年10月より国際線機材から自動体外式除細動器（Automated External Defibrillator：AED）の搭載を開始し、現在、国内線・国際線全機に搭載を完了している。以下は日本航空の主な機内搭載医薬品・医療用具の一覧<sup>5)</sup>である。

・医薬品

注射薬：生理食塩液、ブドウ糖液、イノバン、アトロピン、ネオフィリン、ハイドロコートン、ブスコパン、メテナリン\*、内服薬、ニトロペン、アダラートカプセル、ウテメリン\*、タベジール、タリビット

外用薬：ソフラチュール

・医療用具

聴診器、血圧計、AED、心電図モニター、血糖測定器\*、点滴セット、外科セット\*、アンピュバッグ、気管内挿管セット\*、液体吸引セット\*、異物吸引セット\*、胃管チューブ\*、ネラトンカテーテル\*

\*マークがついている医薬品・医療用具は国際線のみを搭載。（2008年2月現在）

先の沼田らの報告<sup>1)</sup>では、搭載救急医薬品および医療用具で使用件数が多かったのは、多かった方から順に生理食塩水、ブドウ糖液、臭化ブチルスコポラミン、ペンタゾシン、ジアゼパム、血糖測定器、ヒドロコルチゾン、導尿用カテーテルと報告している。同様に全日本空輸（全日空）の搭載救急医薬品及び医療品<sup>6)</sup>は表1の通りである。

### 3、欧米の航空会社との違い

必要最低限の機材については、ICAO（International Civil Aviation Organization）やFAA（Federal Aviation Administration）の指示<sup>7) 8) 9)</sup>があるため、欧米の航空会社と日本の航空会社での相違はないと思われる。以下にFAAが指示している航空機内への医療品搭載推奨リストを掲載する。

Federal Aviation Administrationの推奨<sup>8)</sup>

1986年以降、FAAは乗客30名以上の航空機には以下の緊急医療キットの搭載を要求している。

ENHANCED ON-BOARD EMERGENCY MEDICAL KIT MANDATED BY THE FEDERAL AVIATION ADMINISTRATION.

Currently required

Diagnostic Stethoscope

Sphygmomanometer

Airway Oropharyngeal airway 1 for children, 1 for small adults, 1 for large adults

Intravenous infusion Syringes and needles

Gloves

1 5-ml syringe, 2 10-ml syringes  
Medication Nitroglycerin (0.4-mg tablet)  
Diphenhydramine (50 mg, injectable)  
Dextrose (50%, injectable)  
Epinephrine (1:1000, injectable)  
Instructions for use of drugs in kit  
Required by April 2004 FDA-approved automated external defibrillator  
Mask for cardiopulmonary resuscitation  
Bag-valve device

Intravenous-infusion kit  
Normal saline (0.9%)  
Aspirin (325-mg tablet)  
Diphenhydramine (25-mg tablet)  
Bronchodilator inhaler  
Epinephrine (1:10,000, injectable)  
Lidocaine (20 mg, injectable)

一例として British Airways の搭載救急医薬品及び医療品<sup>10)</sup> は表 2 の通りである。

#### 4、新幹線等の長距離移動も、国際線と同程度の資機材の確保が必要か

新幹線等の列車についても長距離移動を伴うものという意味では航空機と同様であるが、急病が発生して緊急着陸を決断しても時間単位が必要となる航空機とは異なり、新幹線等は 10 分単位で最寄りの駅に緊急停車することができる。この緊急停車に伴う経費的損失や時間的損失も、航空機に比較して新幹線等の列車は非常に少なく、この意味では新幹線等の列車での状況は、航空機とは異なると考えられる。

しかしそれでもこの 10 分単位での処置が非常に重要な救命のポイントとなることもあり、資機材のうちで超緊急性の処置に使用されるものについては、搭載しておく必要があると考えられる。

新幹線車内への AED 配備<sup>11)</sup> については、JR 東日本では東北・上越・長野・山形・秋田の各新幹線（200系、400系、E1系、E2系、E3系、E4系）全 131 編成全てに 2009 年 2 月までに搭載が完了している。JR 東海と JR 西日本の東海道・山陽新幹線でも、2008 年 12 月までに約 210 編成すべてで設置が完了している。さらに私鉄でも小田急電鉄<sup>12)</sup> が 2008 年 10 月にロマンスカーの全 20 編成で設置を終了している。船舶については、大規模客船等で専属医師が同乗した医務室があるような専門的搭載資機材がある場合から、医師の同乗もなく応急箱程度の資機材があるのみの場合まで、さまざまようである。現時点では情報が少ない。

## 5、今後の動き

現在、国土交通省の方でも機内搭載医薬品通達の見直しを行う動きがある。日本では平成5年に初めて機内搭載医薬品が通達で決められ<sup>13)</sup>、同通達内には”3年後を目途に見直しを行う”と記載されているにもかかわらず、その後平成12年に改定されただけでこれまで10年間、見直しは行われていない。国交省がこのたび機内搭載医薬品に関する通達の改定を目指しているのは、ICAO(International Civil Aviation Organization)のAnnex6 part1の改訂<sup>14)</sup>(2009年7月20日、Annex6 8ed amendment33-A 医薬品についての記載を含む)がなされたことが大きく影響していると考えられる。

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表1:全日空機内搭載医薬品、医療品

救急箱	メディカルキット	レサッシューションキット (国際線のみ)
消毒用エタノール	甘草酸ベタメタゾン配合剤(軟膏)	エアウェイ(大・中・小)
塩酸チトラサイクリン軟膏	皮膚殺菌・消毒液(スプレー)	液体吸引機
ポビドンヨード消毒液	携帯用即冷却パック	気道異物除去器
アクリノールガーゼ	熱冷感シート	閉口器
創傷保護剤	湿布薬	バイトブロック
湿布薬	ネット包帯(#1,2,3)	舌圧子
綿棒	脱脂綿	聴診器
はさみ	三角巾	血圧計
ピンセット	消毒用ガーゼ	ペンライト
毛抜き	舌圧子・綿棒(大)セット	ゴム手袋
止血ゴムバンド	綿棒(小)	縫合セット
油紙	綿球	喉頭鏡ハンドル
ガーゼ	はさみ・毛抜き・ピンセット	喉頭鏡ブレード
脱脂綿	皮膚洗浄綿	気管内チューブ(カフ付、カフなし)
絆創膏	体温計	10mL注射器
三角巾	ペンライト	
劇木(大・中・小)	聴診器	
体温計	ポケットマスク	
眼罩	アンビュー・バッグ	
伸縮包帯	デジタル血圧計	
包帯止め	タイコス式血圧計	
	止血ゴムバンド	
	ゴム手袋	
	紙テープ(マイクロポア)	

簡易薬品ケース (市販医薬品)
総合感冒薬
解熱・鎮痛薬(アセチルサリチル酸製剤)
小児用解熱・鎮痛薬(アセアミ/フェン製剤)
成人用鎮痛薬(ジフェンヒドラミン製剤)
小児用鎮痛薬(ジフェンヒドラミン製剤)
胃腸薬
止瀉薬
整腸剤(酪酸菌製剤)
点眼薬(人工涙液型日薬)
救急絆創膏



国際線・国内線のドクターズキット (*印:国内線には搭載なし)	
医薬品	医薬品
点滴液	5%ブドウ糖液 維持輸液*
注射液	エピネフリン ドパミン 硫酸アトロピン ベンタゾシン ジアゼパム 臭化ブチルスコバラミン 静注用塩酸リドカイン* 炭酸水素ナトリウム 水溶性ヒドロコルチゾン フロセミド* アミノフィリン ラナトシド* 20%ブドウ糖液 マレイン酸メチルエルゴメトリン*
錠剤	ニトログリセリン ニフェジピン マレイン酸クロルフェニラミン 臭化ブチルスコバラミン
局所麻酔薬*	局所用1%塩酸リドカイン 塩酸リドカインゼリー
消毒薬	ポビドンヨード* 臭化ベンザルコニウム* 消毒用エタノール
説明書 その他	医薬品説明書(和文・英文*) 医薬品・医療品一覧表 使用報告書
注射用品	注射器 20、10、5、2.5mL 注射針 21、23G 貫針針 21、23G 留置針 20、22G
点滴用品	輸液セット 延長チューブ付三注器 点滴フック・ワイヤー 販血等 消毒綿 絆創膏
縫合用品*	針付者糸(SK13、MM15) 縫糸 ステリストリップ 滅菌ドレープ モスキート鉗子、ケリー鉗子 持針器 クーバー ピンセット(有鉤、無鉤) メス 消毒キット
カテーテル用品*	胃管カテーテル ネラトンカテーテル 50mLシリンジ
その他	外科用手袋 6.5*、7.0、7.5 ゴム手袋* 滅菌綿棒*

表2: British Airways機内搭載医薬品、医療品

**BRITISH AIRWAYS EMERGENCY MEDICAL KIT  
CONTENT LIST**

AMT	PRODUCT	AMT	PRODUCT
	<b>LID COMPARTMENT</b>		<b>UNDER TRAY COVER</b>
1	Contaminated Sharps Box	1	Summary Sheet of Health Professional Medicines-English
1	Laerdal Face Mask	1	Summary Sheet of Health Professional Medicines-French
1	Antiseptic Wipes	1	Summary Sheet of Health Professional Medicines-Spanish
1	Aneroid Sphygmomanometer		<b>TRAY 1A</b>
1	Stethoscope	2	Atropine Amps 600mcg/ml
1	Scissors 5"	3	Furosemide Amps 20mg/2ml (Frusemide)
1	Temgesic (Buprenorphine) Tablets 200mcg (10)	2	Digoxin (Lanoxin) Amps 0.5mg/2ml
	<b>BOX - 01</b>	2	Hyoscine (Buscopan) Amps 20mg/ml
2	W.O.W. Bandage 5cm	2	Metoclopramide Amps 10mg/2ml
2	Triangular Bandage	2	Naloxone (Narcan) Amps 400mcg/ml
2	Wound Dressing Small No.7	3	Nalbuphine (Nubain) Amps 10mg/ml
2	Wound Dressing Medium No.8	2	Epinephrine Amps 1 in 1000 (ml (Adrenaline)
2	Sterile Gauze Swabs 7.5cm x 7.5cm (5)	2	Dexamethasone (Decadron) Vial 3.3mg/ml
2	Skintact Wound Dressing 5cm x 5cm	2	Chlorpheniramine (Piritect) Amps 10mg/ml
2	Skintact Wound Dressing 10cm x 10cm	1	Salbutamol (Ventolin) Amp 0.5mg/ml
10	Mediswabs	2	Diazepam (Diazemsol) Amps 10mg/2ml
6	Steri-Strips 1/2" (6)	1	Water for Injection 10ml
1	Micropore Tape 1.25cm x 10m	2	Water for injection 2ml
1	Tourniquet	1	Lidocaine Vial 2% 20ml (Lignocaine)
1	Safety Pins (6)		<b>NEEDLE BOX (511)</b>
	<b>BOX - 02</b>	1	Butterfly Needle 19g
1	Acetylsalicylic Acid (Aspirin) Tablets 300mg (12)	2	Venflon I.V. Cannula 18g
1	Chlorpheniramine (Piriton) Tablets 4mg (10)	1	Voca-C
1	Epinephrine/Adrenaline (Epipen) Auto Injector 0.3mg		<b>NEEDLE BOX (512)</b>
1	Glucose Gel (Hypostop) (3 doses)	1	Butterfly Needle 21g
1	Glycerol Trinitrate (Nitrolingual) Spray 400mcg	2	Venflon I.V. Cannula 22g
1	Isoorbide Dinitrate (Isordil) Tablets 5mg (4)	1	Voca-C
2	Loperamide (Arret/Imodium) Capsules 2mg (12)		<b>SYRINGE PACK (510)</b>
1	Lorazepam (Ativan) Tablets 1mg (7)	3	Disposable Insulin Syringe 1ml
1	Paracetamol (Calpol) Sachets 120mg/5ml (5)	2	Disposable Syringe 1ml
1	Prochlorperazine (Buccastem) Tablets 3mg (10)	2	Disposable Syringe 2ml
1	Xylometazoline (Otrivine) Nasal Spray 0.1% (10ml)	2	Disposable Syringe 10ml
	<b>BOX - 03</b>	2	Hypodermic Needle 19g
1	Salbutamol (Ventolin) Inhaler 100mcg (200 doses)	2	Hypodermic Needle 21g
3	Ventolin Mouthpieces	2	Hypodermic Needle 23g
1	Vitalograph E-Z Spacer	2	Hypodermic Needle 25g
1	Water Jel Burn Dressing 4"x 4"		<b>TRAY 2B</b>
1	Cool Jel Gel (50ml)	1	Pre-Filled Glucose Injection 50% 50ml
1	FeverScan Strip Thermometer	2	Pre-Filled Epinephrine Inj. 1 in 10,000 10ml (Adrenaline)
	<b>LID PARTITION</b>	1	Medicut Needle 12g
2	Latex Gloves (Medium)	2	Sodium Chloride Amps 0.9% 10ml
2	Latex Gloves (Large)	1	Benzylpenicillin (Crystapen) Vial 600mg (2)
6	Seals (Red)	1	Pen Torch Disposable
1	Sam Splim		<b>BASE COMPARTMENT</b>
1	Surgical Gloves (Medium)	1	Coloplast Easycath Catheter Female Size 12
1	Surgical Gloves (Large)	1	Coloplast Easycath Catheter Female Size 14
1	Flying Staff Medical Manual	1	Coloplast Easycath Catheter Male Size 12
6	Duplicated Drug Usage Form (Kit Opened Letter)	1	Coloplast Easycath Catheter Male Size 14
3	Medical Incident Report Form	1	Urine Drainage Bag 2L
4	"Used On Flight" Return Labels	1	Sodium Chloride 0.9% (N. Saline) I.V. Solution 250ml
1	Copy Pen	1	I.V. Solution Giving Set
1	Summary Sheet of Oral Medicines - English	1	Glucometer (Medisense)
1	Summary Sheet of Oral Medicines - French	5	Glucose Testing Strips
1	Summary Sheet of Oral Medicines - Spanish	5	Lancets
1	Print Out of Kit Contents	2	Mediswabs
1	Yellow "Bio-Hazard" Bag		<b>SUTURE PACK</b>
		1	Disposable Scalpel
		3	Mersilk Suture with Curved Needle
		1	Suture Needle Holder
		5	Mediswabs (2)
			<b>DELIVERY PACK</b>
		1	Mucous Extractor
		2	Spencer Wells Artery Forceps
		1	Scissors 6"
		3	Disposable Umbilical Cord Clamps
		2	Ergometrine/Oxytocin (Syntometrine) Amps 1ml

## 欧米における主な免責に関わる法律

アメリカおよびカナダの「善きサマリア人法」の主な条文を収録した。これら法律は州によって異なるため、「アメリカでは\*\*」と言った包括的な表現を用いる場合には、何について包括したのかを明確にしなければ意味をなさない。また、裁判所の判断などによって次々と修正されていくため、どの時期での法律であるかを明確にしなければ重大な誤解を生む可能性があるため注意が必要である。

ここに収録した各州法に共通するのは「重大な過失 (gross negligence) や故意に基づく違法行為 (willful misconduct) がなく、対価 (remuneration) を求めない限り」と言う条件が前提にあって免責されることである。免責の対象には医療従事者と市民が含まれるが、何らかの制約を加えているものもある。例えば、アラバマ州法では傷病者が心停止の場合は医療従事者と市民がともに免責対象であるが、それ以外 (外傷など) では医療従事者および公立学校の職員のみが対象である。ペンシルバニア州法では市民は公式の心肺蘇生講習を受けていることが要件となっている。さらに、バーモント州やケベック州では傷病者に遭遇した人には、救護に当たることが義務とされていることは注目に値する。

一方、ヨーロッパには「善きサマリア人法」は存在せず、ドイツでは民法の緊急事務管理で対応し、フランスでは刑法 (Status of Necessity) で対応しているとされ、我が国の法的解釈と類似している。しかし、両国とも刑法には救護が義務化されている点は我が国と異なり注目される。

これら法的な対応の違いには、建国の歴史、法体系の形成過程、あるいは国民の人種的な構成の違いが反映されていると考えられるが、アメリカでは免責することで善意の行為へと誘導し、ヨーロッパでは不作為を罰して追い立てることで、他人への救命行為を促しているとも解釈できる。バーモント州法やケベック州法は、両者のちょうど中間に位置して参考になる。

1. アラバマ州法
2. オクラホマ州法
3. カリフォルニア州法
4. ニューヨーク州法
5. ペンシルバニア州法
6. バーモント州法
7. メリーランド州法
8. ワシントン州法
9. オンタリオ州法
10. ケベック州法
11. ブリティッシュ・コロンビア州法

## 1. アラバマ州法

### Section 6-5-332

#### **Persons rendering emergency care etc., at scene of accident, etc.**

(a) When any doctor of medicine or dentistry, nurse, member of any organized rescue squad, member of any police or fire department, member of any organized volunteer fire department, Alabama-licensed emergency medical technician, intern, or resident practicing in an Alabama hospital with training programs approved by the American Medical Association, Alabama state trooper, medical aidman functioning as a part of the military assistance to safety and traffic program, chiropractor, or public education employee gratuitously and in good faith, renders first aid or emergency care at the scene of an accident, casualty, or disaster to a person injured therein, he or she shall not be liable for any civil damages as a result of his or her acts or omissions in rendering first aid or emergency care, nor shall he or she be liable for any civil damages as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person.

(b) Any member of the crew of a helicopter which is used in the performance of military assistance to safety and traffic programs and is engaged in the performance of emergency medical service acts shall be exempt from personal liability for any property damages caused by helicopter downwash or by persons disembarking from the helicopter.

(c) When any physician gratuitously advises medical personnel at the scene of an emergency episode by direct voice contact, to render medical assistance based upon information received by voice or biotelemetry equipment, the actions ordered taken by the physician to sustain life or reduce disability shall not be considered liable when the actions are within the established medical procedures.

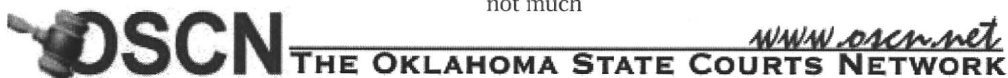
(d) Any person who is qualified by a federal or state agency to perform mine rescue planning and recovery operations, including mine rescue instructors and mine rescue team members, and any person designated by an operator furnishing a mine rescue team to supervise, assist in planning or provide service thereto, who, in good faith, performs or fails to perform any act or service in connection with mine rescue planning and recovery operations shall not be liable for any civil damages as a result of any acts or omissions. Nothing contained in this subsection shall be construed to exempt from liability any person responsible for an overall mine rescue operation, including an operator of an affected facility and any person assuming responsibility therefor under federal or state statutes or regulations.

(e) A person or entity, who in good faith and without compensation renders emergency care or treatment to a person suffering or appearing to suffer from cardiac arrest, which may include the use of an automated external defibrillator, shall be immune from civil liability for any personal injury as a result of care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary prudent person would have acted under the same or similar circumstances, except damages that may result from the gross negligence of the person rendering emergency care. This immunity shall extend to the licensed physician or medical authority who is involved in automated external defibrillator site placement, the person who provides training in CPR and the use of the automated external defibrillator, and the person or entity responsible for the site where the automated external defibrillator is located. This subsection specifically excludes from the provision of immunity any designers, manufacturers, or sellers of automated external defibrillators for any claims that may be brought against such entities based upon current Alabama law.

(f) Any licensed engineer, licensed architect, licensed surveyor, licensed contractor, licensed subcontractor, or other individual working under the direct supervision of the licensed individual who participates in emergency response activities under the direction of, or in connection with, a

community emergency response team, county emergency management agency, the state emergency management agency, or the Federal Emergency Management Agency shall not be liable for any civil damages as a result of any acts, services, or omissions provided without compensation, in such capacity if the individual acts as a reasonably prudent person would have acted under the same or similar circumstances. The immunity provided in this subsection shall apply to any acts, services, or omissions provided within 30 days after declaration of the emergency.

*(Acts 1966, Ex. Sess., No. 253, p. 377; Acts 1975, No. 1233, p. 2594; Acts 1981, No. 81-804, p. 1427; Acts 1987, No. 87-390, p. 558, § 1; Acts 1993, No. 93-373, § 1; Act 99-370, p. 595, § 3; Act 2006-104, p. 134, § 1.)*



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Title 76. Torts

**Oklahoma Statutes Citationized**

**Title 76. Torts**

**Section 5 - Responsibility for - Negligence - Good Samaritan Act**

Cite as: O.S. 7, \_\_\_

(a) Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself, and except as hereinafter provided.

(1) Where no prior contractual relationship exists, any person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or licensed to render services ancillary thereto, including licensed registered and practical nurses, who, under emergency circumstances that suggest the giving of aid is the only alternative to probable death or serious bodily injury, in good faith, voluntarily and without compensation, renders or attempts to render emergency care to an injured person or any person who is in need of immediate medical aid, wherever required, shall not be liable for damages as a result of any acts or omissions except for committing gross negligence or willful or wanton wrongs in rendering the emergency care.

(2) Where no prior contractual relationship exists, any person who in good faith renders or attempts to render emergency care consisting of artificial respiration, restoration of breathing, or preventing or retarding the loss of blood, or aiding or restoring heart action or circulation of blood to the victim or victims of an accident or emergency, wherever required, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

(3) Where no prior contractual relationship exists, any person licensed to perform surgery or dentistry in this state who in good faith renders emergency care requiring the performance of an operation or other form of surgery upon any individual who was the victim of an accidental act shall not be liable for any civil damages or subject to criminal prosecution as the result of nonconsent whereby such person renders or attempts to render the emergency surgery or operation voluntarily and without compensation, wherever required, except for gross negligence or willful or wanton wrongs committed in rendering the care; provided, however, that the exemption granted by this subsection shall not attach if the victim is an adult who is conscious and capable of giving or refusing his consent; or if the victim's spouse, or parent, or guardian in the case of a minor or incompetent person, can be reached in a reasonable time considering the condition of the victim and consistent with good medical practice, and unless concurrence is obtained for such emergency surgery or operation from one other person licensed to perform surgery in this state.

(4) Where no contractual relationship exists, any person, or any member of his immediate family or household, who has been approved by the local P.T.A. or other local sponsoring agency or organization, who has registered with the local municipal police chief or the county sheriff, and who has been granted appropriate authorization by either the police chief or the county sheriff to indicate by sign in the window of his home or in any other tangible or identifiable manner that he will extend aid and refuge to persons on the streets in apparent danger, or in need of aid, by inviting those persons into the person's home, or onto premises thereof, and in good faith provides such refuge or aid without objection of the endangered or needy person, whether child or adult, neither the person extending the aid and refuge nor the homeowner or head of household shall be liable for civil damages as a result of actions or omissions in rendering emergency physical care to the body of the aided person; nor shall they be liable for civil damages for any other injury in the home, or on premises thereof, to the person aided, nor for any failure to provide or arrange for his police protection or other protection or medical treatment, when the actions or omissions were those of an ordinarily reasonably prudent person under the circumstances without want of ordinary care or skill.

(b) This act shall be known and may be cited as the "Good Samaritan Act."

## Historical Data

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R.L. 1910, § 998; Amended by Laws 1963, SB 206, c. 87, § 1, emerg. eff. May 22, 1963; Amended by Laws 1965, HB 574, c. 24, § 1, emerg. eff. February 26, 1965; Amended by Laws 1969, HB 1287, c. 158, § 1, emerg. eff. April 14, 1969; Amended by Laws 1971, HB 1046, c. 146, § 1, emerg. eff. May 19, 1971; Amended by Laws 1974, SB 270, c. 256, § 1, emerg. eff. May 29, 1974; Amended by Laws 1979, SB 127, c. 18, § 1, emerg. eff. March 30, 1979.

## Citationizer<sup>2</sup> Summary of Documents Citing This Document

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Cite Name	Level	
<b>Oklahoma Court of Civil Appeals Cases</b>		
Cite	Name	Level
<u>1992 OK CIV APP 10, 841 P.2d 608, 63 OBJ 3688,</u>	<u>Cooper v. Bondoni</u>	Cited
<u>1992 OK CIV APP 49, 838 P.2d 31, 63 OBJ 3219,</u>	<u>James v. O'Neal</u>	Cited
<u>2005 OK CIV APP 104, 125 P.3d 705,</u>	<u>YOUN v. KULA</u>	Discussed at Length
<u>1976 OK CIV APP 44, 569 P.2d 512,</u>	<u>DENTCO INV. CO., INC. v. OKL. NATURAL GAS CO.</u>	Cited
<u>1985 OK CIV APP 24, 702 P.2d 393, 56 OBJ 1399,</u>	<u>Anson v. Erlanger Minerals and Metals, Inc.</u>	Cited
<b>Oklahoma Supreme Court Cases</b>		
Cite	Name	Level
<u>1993 OK 155, 864 P.2d 839, 64 OBJ 3587,</u>	<u>Jackson v. Mercy Health Center, Inc.</u>	Discussed at Length
<u>1968 OK 29, 438 P.2d 477,</u>	<u>STILLS v. MAYOR</u>	Discussed
<u>2004 OK 71, 102 P.3d 660,</u>	<u>TUCKER v. ADG, INC.</u>	Discussed at Length
<u>2005 OK 10, 112 P.3d 1162,</u>	<u>THOMASON v. PILGER</u>	Cited
<u>2007 OK 38, 160 P.3d 959,</u>	<u>LOWERY v. ECHOSTAR SATELLITE CORP.</u>	Cited
<u>2008 OK 3, 184 P.3d 479,</u>	<u>GOMES v. HAMEED</u>	Discussed at Length
<u>1975 OK 105, 539 P.2d 731,</u>	<u>ROSS v. OTIS ELEVATOR COMPANY</u>	Cited
<u>1976 OK 13, 549 P.2d 85,</u>	<u>MARTIN v. GRIFFIN TELEVISION, INC.)</u>	Cited
<u>1977 OK 70, 563 P.2d 143,</u>	<u>LOYAL ORDER OF MOOSE, LODGE 1785 v. CAVANESS</u>	Cited
<u>1977 OK 163, 569 P.2d 967,</u>	<u>WEAVER v. PRYOR JEFFERSONIAN</u>	Cited
<u>1979 OK 18, 595 P.2d 780,</u>	<u>SUTHERLAND v. SAINT FRANCIS HOSPITAL, INC.</u>	Discussed
<b>Title 59. Professions and Occupations</b>		
Cite	Name	Level
<u>59 O.S. 534,</u>	<u>Issuance of License as Athletic Trainer</u>	Cited
<u>59 O.S. 2042,</u>	<u>Practice of Respiratory Care</u>	Cited

## Citationizer: Table of Authority

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Cite	Name	Level
None Found.		

## Article 2. Duties of the Commission

**1799.50.** The commission shall review and approve regulations, standards, and guidelines to be developed by the authority for implementation of this division.

**1799.51.** The commission shall advise the authority on the development of an emergency medical data collection system.

**1799.52.** The commission shall advise the director concerning the assessment of emergency facilities and services.

**1799.53.** The commission shall advise the director with regard to communications, medical equipment, training personnel, facilities, and other components of an emergency medical services system.

**1799.54.** The commission shall review and comment upon the emergency medical services portion of the State Health Facilities and Service Plan developed pursuant to Section 127155. [Amended by SB 1497 (CH 1023) 1996.]

**1799.55.** Based upon evaluations of the EMS systems in the state and their coordination, the commission shall make recommendations for further development and future directions of the emergency medical services in the state.

**1799.56.** The commission may utilize technical advisory panels established pursuant to the provisions of Section 1797.133 as are needed to assist in developing standards for emergency medical services.

## CHAPTER 9. LIABILITY LIMITATION

**1799.100.** In order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, private business or nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2 of the Government Code, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, or certifies those people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses in emergency medical services, shall be liable for any civil damages alleged to result from those training programs. [Amended by SB 595 (CH 1246) 1983; AB 2796 (CH 363) 2008.]

**1799.102.** (a) No person who in good faith, and not for compensation, renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This subdivision applies only to the medical, law enforcement, and emergency personnel specified in this chapter. [Amended by AB 83 (CH 77) 2009.]

(b) (1) It is the intent of the Legislature to encourage other individuals to volunteer, without compensation, to assist others in need during an emergency, while ensuring that those volunteers who provide care or assistance act responsibly.

(2) Except for those persons specified in subdivision (a), no person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall be liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This subdivision shall not be construed to alter existing protections from liability for licensed medical or other personnel specified in subdivision (a) or any other law.

(c) Nothing in this section shall be construed to change any existing legal duties or obligations, nor does anything in this section in any way affect the provisions in Section 1714.5 of the Civil Code, as proposed to be amended by Senate Bill 39 of the 2009-10 Regular Session of the Legislature.

(d) The amendments to this section made by the act adding subdivisions (b) and (c) shall apply exclusively to any legal action filed on or after the effective date of that act.

**1799.104.** (a) No physician or nurse, who in good faith gives emergency instructions to an EMT-II or mobile intensive care paramedic at the scene of an emergency, shall be liable for any civil damages as a result of issuing the instructions.

(b) No EMT-II or mobile intensive care paramedic rendering care within the scope of his duties who, in good faith and in a nonnegligent manner, follows the instructions of a physician or nurse shall be liable for any civil damages as a result of following such instructions.

**1799.105.** (a) A poison control center which (1) meets the minimum standards for designation and operation established by the authority pursuant to Section 1798.180, (2) has been designated a regional poison control center by the authority, and (3) provides information and advice for no charge on the management of exposures to poisonous or toxic substances, shall be immune from liability in civil damages with respect to the emergency provision of that information or advice, for acts or omissions by its medical director, poison information specialist, or poison information provider as provided in subdivisions (b) and (c).

(b) Any poison information specialist or poison information provider who provides emergency information and advice on the management of exposures to poisonous or toxic substances, through, and in accordance with, protocols approved by the medical director of a poison control center specified in subdivision (a), shall only be liable in civil damages, with respect to the emergency provision of that information or advice, for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. This subdivision shall not be construed to immunize the negligent adoption of a protocol.

(c) The medical director of a poison control center specified in subdivision (a) who provides emergency information and advice on the management of exposures to poisonous or toxic substances, where the exposure is not covered by an approved protocol, shall be liable only in civil damages, with respect to the emergency provision of that information or advice, for acts or omission performed in a grossly negligent manner or acts or omissions not performed in good faith. This subdivision shall neither be construed to immunize the negligent failure to adopt adequate approved protocols nor to confer liability upon the medical director for failing to develop or approve a protocol when the development of a protocol for a specific situation is not practical or the situation could not have been reasonably foreseen. [Added by AB 4587 (CH 1192) 1988.]

**1799.106.** In addition to the provisions of Section 1799.104 of this code and of Section 1714.2 of the Civil Code and in order to encourage the provision of emergency medical services by firefighters, police

#### 4. ニューヨーク州法

##### **Section 3000-a. Emergency medical treatment.**

1. Except as provided in subdivision six of section six thousand six hundred eleven, subdivision two of section six thousand five hundred twenty-seven, subdivision one of section six thousand nine hundred nine and sections six thousand five hundred forty-seven and six thousand seven hundred thirty-seven of the education law, any person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill, or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such person. Nothing in this section shall be deemed or construed to relieve a licensed physician, dentist, nurse, physical therapist or registered physician's assistant from liability for damages for injuries or death caused by an act or omission on the part of such person while rendering professional services in the normal and ordinary course of his or her practice.

2.

- i. Any person who, or entity, partnership, corporation, firm or society that, purchases, operates, facilitates implementation or makes available resuscitation equipment that facilitate first aid, an automated external defibrillator or an epinephrine auto-injector device as required by law or local law, or
- ii. the emergency health care provider with a collaborative agreement under section three thousand-b of this article with respect to an automated external defibrillator, or
- iii. the emergency health care provider with a collaborative agreement under section three thousand-c of this article with respect to use of an epinephrine auto-injector device, shall not be liable for damages arising either from the use of that equipment by a person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or medical emergency, or from the use of defectively manufactured equipment; provided that this subdivision shall not limit the person's or entity's, partnership's, corporation's, firm's, society's or the emergency health care provider's liability for his, her or its own negligence, gross negligence or intentional misconduct.

##### **Section 3000-b. Automated defibrillators: Public access providers.**

1. Definitions. As used in this section, unless the context clearly requires otherwise, the following terms shall have the following meanings:

- A) "Automated external defibrillator" means a medical device, approved by the United States Food and Drug Administration, that:
  - (I) is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia;
  - (II) is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient;
  - (III) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and
  - (IV) then, upon action by an operator, delivers an appropriate electrical impulse to the patient's heart to perform defibrillation.
- B) "Emergency Health Care Provider" means:
  - (I) a physician with knowledge and experience in the delivery of emergency cardiac care; or
  - (II) a hospital licensed under article twenty-eight of this chapter that provides emergency cardiac care.
- C) "Public access defibrillation provider" means a person, firm, organization or other entity possessing or operating an automated external defibrillator pursuant to a collaborative agreement under this section.
- D) "Nationally-recognized organization" means a national organization approved by the

## 5. ペンシルバニア州法

### Pennsylvania Consolidated Statutes

#### JUDICIARY AND JUDICIAL PROCEDURE (TITLE 42)

#### HOME

##### CHAPTER 83. PARTICULAR RIGHTS AND IMMUNITIES

###### § 8331. Medical good Samaritan civil immunity.

(a) General rule.--Any physician or any other practitioner of the healing arts or any registered nurse, licensed by any state, who happens by chance upon the scene of an emergency or who arrives on the scene of an emergency by reason of serving on an emergency call panel or similar committee of a county medical society or who is called to the scene of an emergency by the police or other duly constituted officers of a government unit or who is present when an emergency occurs and who, in good faith, renders emergency care at the scene of the emergency, shall not be liable for any civil damages as a result of any acts or omissions by such physician or practitioner or registered nurse in rendering the emergency care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving emergency care.

(b) Definition.--As used in this section "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the patient is hospitalized.

###### § 8331.1. Veterinary good Samaritan civil immunity.

(a) General rule.--Any individual licensed to practice veterinary medicine who, in good faith, renders emergency care to any animal which such individual has discovered at the scene of an accident or emergency situation or which has immediately prior to the rendering of such care been brought to such individual's attention at or from the scene of any accident or emergency situation shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care, except any acts or omissions intentionally designed to harm, or any grossly negligent acts or omissions which result in harm to the animal.

(b) Definition.--As used in this section, "good faith" shall include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the animal is hospitalized.

(c) Exception.--This section shall not apply where the owner of the animal is in attendance and can be consulted as to the proposed action by the veterinarian.

###### § 8331.2. Good Samaritan civil immunity for use of automated external defibrillator.

(a) General rule.--Except as otherwise provided in this section, any individual who is trained to use an automated external defibrillator in accordance with subsection (c) and who in good faith uses an AED in an emergency shall not be liable for any civil damages as a result of any acts or omissions by such individual in using the AED, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the individual receiving the AED treatment.

(b) Requirements.--Any person who acquires and maintains an AED for use in accordance with this section shall not be liable for civil damages provided that the person:

1. Ensures that expected AED users receive training pursuant to subsection (c).
2. Maintains and tests the AED according to the manufacturer's operational guidelines.
3. Provides instruction requiring the user of the AED to utilize available means to immediately contact and activate the emergency medical services system.
4. Assures that any appropriate data or information is made available to emergency medical services personnel or other health care providers as requested.

(c) Training.--For purposes of this section, expected AED users shall complete training in the use of an AED provided by the American National Red Cross or the American Heart Association or through an equivalent course of instruction approved by the Department of Health in consultation with a technical committee of the Pennsylvania Emergency Health Services Council.

(d) Obstruction of emergency medical services personnel.--Nothing in this section shall relieve a person who uses an AED from civil damages when that person obstructs or interferes with care and treatment being provided by emergency medical services personnel or a health professional.

(e) Exception.--Any individual who lacks the training set forth in subsection (c) but who has access to an AED and in good faith uses an AED in an emergency as an ordinary, reasonably prudent individual would do under the same or similar circumstances shall receive immunity from civil damages as set forth in subsection (a).

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Automated external defibrillator" or "AED."

A portable device that uses electric shock to restore a stable heart rhythm to an individual in cardiac arrest.

"Emergency."

A situation where an individual is believed to be in cardiac arrest and in need of immediate medical attention to prevent death or serious injury.

"Good faith."

Includes a reasonable opinion that the immediacy of the situation is such that the use of an AED should not be postponed until emergency medical services personnel arrive or the person is hospitalized.

#### §8332. Nonmedical good Samaritan civil immunity.

(a) General rule.--Any person who renders emergency care, first aid or rescue at the scene of an emergency, or moves the person receiving such care, first aid and rescue to a hospital or other place of medical care, shall not be liable to such person for any civil damages as a result of any acts or omissions in rendering the emergency care, first aid or rescue, or moving the person receiving the same to a hospital or other place of medical care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving the emergency care, first aid or rescue or being moved to a hospital or other place of medical care.

(b) Exceptions.--

1. This section shall not relieve a driver of an ambulance or other emergency or rescue vehicle from liability arising from operation or use of such vehicle.
2. In order for any person to receive the benefit of the exemption from civil liability provided for in subsection (a), he shall be, at the time of rendering the emergency care, first aid or rescue or moving the person receiving emergency care, first aid or rescue to a hospital or other place of medical care, the holder of a current certificate evidencing the successful completion of a course in first aid, advanced life saving or basic life support sponsored by the American National Red Cross or the American Heart Association or an equivalent course of instruction approved by the

Department of Health in consultation with a technical committee of the Pennsylvania Emergency Health Services Council and must be performing techniques and employing procedures consistent with the nature and level of the training for which the certificate has been issued.

**§ 8332.1. Manager, coach, umpire or referee and nonprofit association negligence standard.**

(a) General rule.--Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders services as a manager, coach, instructor, umpire or referee or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, and no nonprofit association, or any officer or employee thereof, conducting or sponsoring a sports program, shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports program, unless the conduct of such person or nonprofit association falls substantially below the standards generally practiced and accepted in like circumstances by similar persons or similar nonprofit associations rendering such services or conducting or sponsoring such sports programs, and unless it is shown that such person or nonprofit association did an act or omitted the doing of an act which such person or nonprofit association was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person or nonprofit association fell below ordinary standards of care.

(b) Exceptions.--

1. Nothing in this section shall be construed as affecting or modifying the liability of such person or nonprofit association for any of the following:

- (i) Acts or omissions relating to the transportation of participants in a sports program or others to or from a game, event or practice.
- (ii) Acts or omissions relating to the care and maintenance of real estate unrelated to the practice or playing areas which such persons or nonprofit associations own, possess or control.

2. Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

(c) Assumption of risk or contributory fault.--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

(d) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Compensation."

The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires or referees, a modest honorarium.

"Nonprofit association."

An entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious,

charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program."

Baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. §371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or mentally retarded.

#### **§ 8332.2. Officer, director or trustee of nonprofit organization negligence standard.**

(a) General rule.--Except as provided otherwise in this section, no person who serves without compensation, other than reimbursement for actual expenses, as an officer, director or trustee of any nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3)) shall be liable for any civil damages as a result of any acts or omissions relating solely to the performance of his duties as an officer, director or trustee, unless the conduct of the person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons performing the same or similar duties, and unless it is shown that the person did an act or omitted the doing of an act which the person was under a recognized duty to another to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of the person fell below ordinary standards of care.

(b) Exception.--Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any nonprofit association.

#### **§ 8332.3. Volunteer firefighter civil immunity.**

Volunteer firefighters shall be treated as public employees as defined in section 8501 (relating to definitions). This section shall not be construed to reduce or eliminate any other immunity provided to volunteer firefighters by law.

#### **§ 8332.4. Volunteer-in-public-service negligence standard.**

(a) General rule.--Except as provided otherwise in this section, no person who, without compensation and as a volunteer, renders public services for a nonprofit organization under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (68A Stat. 3, 26 U.S.C. §501(c)(3) or (4)) or for a Commonwealth or local government agency conducting or sponsoring a public service program or project shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell

below ordinary standards of care.

(b) Exceptions.--

1. Nothing in this section shall be construed as affecting or modifying the liability of such person for acts or omissions relating to the transportation of participants in a public service program or project or others to or from a public service program or project.
2. Nothing in this section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this section.

(c) Assumption of risk or contributory fault.--Nothing in this section shall be construed as affecting or modifying the doctrine of assumption of risk or contributory fault on the part of the participant.

(d) Construction.--The negligence standard created by this section shall not be deemed to abrogate or lessen any immunity or other protection against liability granted by statute or court decision.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Compensation."

The term shall not include reimbursement for reasonable expenses actually incurred or to be incurred.

"Public service program or project."

An organized program, or other public service ordinarily conducted or rendered by volunteers.

#### **§ 8332.5. Corporate representatives.**

(a) General rule.--The liability of an individual shall be limited to the extent expressly provided by or pursuant to Title 15 (relating to corporations and unincorporated associations) See 15 Pa.C.S. Ch. 5 Subch. B (relating to fiduciary duty and indemnification), Ch. 17 Subch. B (relating to fiduciary duty) and Ch. 57 Subch. B (relating to fiduciary duty).

(b) Certain governmental corporations.--An individual who is a director, officer or employee of a governmental corporation and who is not entitled to immunity under Chapter 85 (relating to matters affecting government units) may assert any applicable immunity under 15 Pa.C.S. Ch. 57 Subch. B to the same extent as if the governmental corporation were a nonprofit corporation which had elected the maximum immunity available under such subchapter.

#### **§ 8333. Body fluid and tissue limited civil immunity.**

(a) General rule.--No person shall be held liable for death, disease or injury resulting from the lawful transfusion of blood, blood components or plasma derivatives, or from the lawful transplantation or insertion of tissue, bone or organs, except upon a showing of negligence on the part of such person. Specifically excluded hereunder is any liability by reason of any rule of strict liability or implied warranty or any other warranty not expressly undertaken by the party to be charged.

(b) Definition.--As used in this section the term "negligence" shall include but not be limited to any failure to observe accepted standards in the collection, testing, processing, handling, storage, transportation, classification, labelling, transfusion, injection, transplantation or other preparation or use of any such blood, blood components, plasma derivatives, tissue, bone or