Virtual Mentor. April 2004, Volume 6, Number 4.
doi: 10.1001/virtualmentor.2004.6.4.hlaw1-0404

Health Law

Good Samaritan Statutes: Are Medical Volunteers Protected?

Good Samaritan laws cover physicians in most instances of rendering volunteer medical services when four criteria are met.

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Dr. Alan Knox was enjoying the bright sunshine outside the medical tent of the 12th Annual Taste of the City. The Taste provides the opportunity to sample food from the menus of more than fifty local restaurants. For the past 4 years, he has volunteered to provide on-site emergency medical services to the thousands of city dwellers who flock to the downtown area every July for the 2-day event. During the first day, Dr. Knox received word that a patron near the Foghorn Wings and Things stand was having trouble breathing. He grabbed his stethoscope and a small first aid kit and along with Angela Davis, an EMT also volunteering at the event, rushed to the scene.

They found Jennie Kaufman lying on a bench. She appeared in mild respiratory distress. She had hives on her forearms, and appeared to be suffering from an anaphylactic allergic reaction. Between gasps, she muttered, "Epipen…need my Epipen…." Ms Davis searched Jennie's pockets, but could not locate any injector. Meanwhile, Dr. Knox opened the first aid kit, but was unable to locate an Epipen. He asked Ms Davis if she had any, and she replied, "Nothing on me. But I've got it back in the ambulance. I'll go and get it." Dr. Knox waited with Jennie, checking her pulse, which was tachycardic, but otherwise normal. A few minutes later, Ms Davis returned with the Epipen. After receiving the dose, Jennie did not look much improved. She continued to ask for an Epipen, and then suddenly lost consciousness and stopped breathing.

Dr. Knox began CPR immediately, while Ms Davis ran to bring the ambulance to the scene. Jennie was transferred to the University Medical Center, but failed to regain consciousness. Two days later, she died.

Legal Analysis

The above facts are adapted from *Boccasile v Cajun Music Limited*, in which the Supreme Court of Rhode Island held that a physician and nurse, who volunteered their services at a music festival, were covered by the state's Good Samaritan statutes [1]. This case highlighted the limits of Good Samaritan statutes and further identified the ambiguity that arises when medical professionals provide voluntary services.

The "No Duty to Rescue" Doctrine

The term "Good Samaritan" derives from a New Testament parable in which a Samaritan was the only passer-by to stop and render assistance to a man who had been left half-dead by thieves [2]. Although the parable suggests what may be a moral obligation to offer care, traditional common law did not require ordinary citizens to help others found in physical distress. In fact, the "no duty to rescue" doctrine applied even when the potential "rescuer" had the ability, equipment, and expertise to render effective medical assistance. Once an individual began helping another, however, common law imposed a duty to do so reasonably. Bystanders could be held liable for any "unreasonable" actions that furthered the victim's suffering [3].

Good Samaritan legislation was initially directed towards physicians who came upon an ailing victim outside of the hospital setting. Under such conditions, the experience and expertise of the physician often did not match the medical needs of the sick individual. Likewise, medical equipment would be severely limited, and sanitary conditions were not on a par with those found in hospital facilities. Thus, the purpose underlying Good Samaritan legislation was encouraging providers to render "good faith" medical treatment to those who otherwise would not receive it [4]. California passed the first state statute to be labeled a Good Samaritan law in 1959, and the rest of the states eventually followed.

Requirements for Protection

Several requirements must be met for the immunizing effects of the Good Samaritan statutes to take hold. First, the situation must represent a true emergency—the potential for loss of life or limb. Second, the care provided must be rendered free of charge. Thus, if a physician initially grants emergency services gratuitously but subsequently bills the patient, he or she forfeits protection under the doctrine. Third, the care must be provided in "good faith." State statutes commonly exclude protection for gross negligence, a legal term for willful or intentional harm inflicted on another that results from a substantial deviation from the general standard of care. Additionally, once a physician offers emergency assistance, he or she has a legal duty to remain until the victim is stabilized or until another provider with equivalent or higher training takes over the care of the patient. Otherwise, issues of patient abandonment are raised [5].

The purpose of Good Samaritan legislation is to encourage health care professionals to render emergency treatment when they have no duty to do so. Therefore, circumstances that dictate a pre-existing duty to act preclude protection under Good Samaritan laws. For example, health care professionals who are acting as hospital employees are ordinarily responsible for rendering emergency care to hospital patients. Their general duty precedes the emergency situation and, hence, protection cannot be invoked [6].

Under most circumstances, a medical professional's obligation to treat an individual is clear. For example, the law clearly recognizes a pre-existing duty to treat when the medical professional is an employee of a hospital or has already begun rendering treatment. However, the law is silent as to whether medical professionals who volunteer their services are covered by Good Samaritan legislation. Does the act of volunteering establish a pre-existing duty to render services? This was the very question addressed by the Supreme Court of Rhode Island in *Boccasile v Cajun Music Limited*.

Boccasile v Cajun Music Limited

Aline Daguanno Champoux, RN, and Sara John, MD, volunteered to staff a first-aid station at the 1989 Cajun Music Festival in Escoheag , Rhode Island. During the event, they were notified that "there was a man having a problem on the hill" [7]. Dr. John and other members of the festival's first aid crew went to the area to render emergency medical care. Nurse Champoux remained at the first aid tent.

Dr. John discovered that Ralph Boccasile was experiencing an allergic reaction to seafood gumbo. Boccasile repeatedly requested a shot, which Dr. John understood to mean a shot of adrenaline or Benadryl. Dr. John remained with Boccasile while other members of the first-aid crew went back to the tent to locate an adrenaline injector and call an ambulance. Within a few minutes, someone returned with an Epipen. Dr. John verified its contents and injected it into Boccasile's thigh. At this point, Nurse Champoux joined Dr. John.

Boccasile complained that he felt worse and continued to request a shot. He subsequently lost consciousness. Dr. John began mouth-to-mouth resuscitation, and continued until the ambulance arrived. Boccasile never regained consciousness and died the following day.

Jean Boccasile, the decedent's widow, filed suit against Dr. John and Nurse Champoux alleging, among other things, that they negligently responded to Boccasile's condition by failing to bring medical equipment to the scene. She further argued that they were not protected by the state's Good Samaritan statutes because they had volunteered to administer their services, thereby establishing a preexisting duty and setting themselves outside the statute's protection.

Dr. John and Nurse Champoux argued that because they were volunteers and did not receive remuneration for their services, they were covered by the state's Good Samaritan statutes. Consequently, they were immune from liability for all reasonable actions with the exception of gross negligence. The lower court agreed with them and granted their motions for summary judgment (a motion that requests judgment in favor of the requesting party without trial). Mr. Boccasile's widow appealed.

The Rhode Island Supreme Court affirmed the lower court decision, holding (among other things) that Mr. Boccasile's widow failed to provide sufficient evidence to demonstrate a deviation from the standard of care on the part of Dr. John and Nurse Champoux.

A careful reading of the case indicates 2 contradictory outcomes. On the one hand, by affirming the lower court's decision, the Rhode Island Supreme Court implicitly conceded that medical volunteers are protected by the state's Good Samaritan legislation. Under this construction, Good Samaritan laws afford a viable defense for providers who choose to volunteer their services and render them in "good faith" [5].

But, by granting the defendants' motions for summary judgment based on the fact that the plaintiff had not demonstrated sufficient evidence of deviation from standard of care, the court did not directly address the Good Samaritan status of doctors who volunteer. The court focused on the procedural rather than the substantive issues at stake, and, thus, did not expressly affirm the lower court's decision that the defendants were protected by the State's Good Samaritan laws. Because anything that is not included in a legal opinion is often considered to be excluded from the ruling, it may be argued that, according to *Boccasile v Cajun Music Limited*, medical professionals who volunteer their services undertake a responsibility which precludes immunity under Good Samaritan legislation. The position as a volunteer may establish a preexisting duty to render medical treatment [8].

If health care professionals are not covered by a state's Good Samaritan statute they are liable for both gross *and* ordinary negligence. Ordinary negligence occurs when an individual's deviation from the standard of care (ie, what a reasonably prudent person would do under similar circumstances) results in injury to another.

Gross negligence, by comparison, refers to "willful or wanton misconduct" [9], "an act or omission in reckless disregard of the consequences affecting the life or property of another" [10]. The maliciousness associated with gross negligence means that gross negligence is much closer to intentional misconduct than is ordinary negligence.

Because gross negligence is much closer to intentional wrongdoing, a higher standard of proof is required by a plaintiff in court. Additionally, the standard of care in an ordinary negligence action involving physicians will be the actions that a reasonably prudent *physician* would take under similar circumstances. For these reasons, a physician's ability to invoke a Good Samaritan defense is crucial.

These issues are matters of individual court interpretation, and, thus, a careful reading of the applicable state statute is essential to ascertain potential liability. In general, courts look to the plain language of statutes when interpreting legislative enactments [11]. If the language is clear, the statute will be enforced according to its actual terms. However, when a statute is subject to more than one plausible interpretation, courts attempt to honor the legislature's intent by analyzing the purpose for which the statute was adopted. In the context of Good Samaritan legislation it may be useful to look not only to the language of the statute itself, but also to applicable case law. If case law suggests a trend of narrow interpretation, it may be logical to assume that Good Samaritan statutes will not cover medical professionals who are volunteering. Conversely, if case law suggests broad interpretation, medical professionals who volunteer may be covered by the legislation.

In summary, physicians and other health care professionals should ask the following questions in order to ascertain potential liability: (1) Is this an emergency situation? (2) Do I have a pre-existing duty to render medical treatment? (3) Will I receive remuneration for my services? (3) Will my services be provided in "good faith"? (4) What protections do the applicable state statutes provide?

In general, it appears that health care professionals who render voluntary services will be protected by Good Samaritan legislation [12]. The determining factors will most likely be whether the health care provider "upheld the spirit of the law by rendering emergency care voluntarily and in good faith" [5].

Questions for Discussion

1. What ethical beliefs and professional values might affect your actions in an emergency situation where you do not have a pre-existing duty to treat and you could incur legal liability?
2. Do you think Good Samaritan laws should be modified to encourage more physicians to intervene where they do not have a duty to treat? Do you think laws should compel physicians to intervene if they are present in an emergency and have the necessary skills?

References

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Additional Suggested Reading

- Norman J. Singer, Sutherland Statutory Construction sec 61.01, at 77 (4th ed 1986) quoting *Shaw v Railroad Co*, 101 US 557, 565, 25 L Ed 892, 894, 8 Week Notes Cas 221 (1880).