TABLE - LEGAL LIABILITY PROTECTIONS FOR EMERGENCY MEDICAL/PUBLIC HEALTH RESPONSES (as of March 20, 2020)

The table below highlights potential liability protections at the federal and state levels for different types of actors and entities involved in emergency response efforts during declared and non-declared emergency events. Please note that (1) this table does not provide legal advice and (2) listed protections vary greatly depending upon the situation and jurisdiction. Data are organized via the following columns:

I. **Actors** – categorizing individuals or entities involved in emergency response;
II. **Non-declaration Event** – listing potential liability protections at federal and state levels in events for which no emergency has been legally declared; and
III. **Declared Emergency Event** – listing potential liability protections and immunities at the federal or state levels during a legally-declared emergency, disaster, public health emergency (or like terms).

Federal liability protections are based upon searches of available protections for specified actors. State-level laws provide illustrative examples of different types of protections. Application of these state laws depends on their existence in each jurisdiction (as discussed in the references). In addition, a number of cross-cutting legal protections may arise through Memorandums of Understanding (MOUs), malpractice insurance coverage, crisis standards of care, or other avenues.

For purposes of this table, licensed healthcare workers (HCW) are defined as persons licensed in the jurisdiction in which they are providing care, either through standard licensing processes or reciprocity. Non-licensed HCWs do not have active licenses in the jurisdictions in which they are providing care, but may be acting under authority of an emergency law or waiver. Volunteers are defined broadly to include volunteers of non-profits and governmental agencies providing varied health care or public health services, but not including self-deployed persons acting outside public response efforts. Employees are defined broadly to include healthcare workers as well as other types of responders.

Each liability protection listed in the table is preceded by 1 of 3 symbols related to the type or level of protection for applicable individuals or entities as follows:

- ✓ - indicates that individuals or entities in jurisdictions with applicable laws meeting the statutory requirements are immune from civil liability;
- ❗ - indicates that individuals or entities may only be partially protected or protections are subject to extensive state-based variations; or
- 🔴 - indicates that the legal protections are likely very limited in their scope.

**Acronyms and Abbreviations**

<table>
<thead>
<tr>
<th>Acronym/Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>EMAC</td>
<td>Emergency Management Assistance Compact</td>
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<tr>
<td>FTCA</td>
<td>Federal Tort Claims Act</td>
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<tr>
<td>HCW</td>
<td>Healthcare worker</td>
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<tr>
<td>MSEHPA</td>
<td>Model State Emergency Health Powers Act</td>
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<tr>
<td>PREP Act</td>
<td>Public Readiness and Emergency Preparedness Act</td>
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<tr>
<td>UEVHPA</td>
<td>Uniform Emergency Volunteer Health Practitioners Act</td>
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<td>VPA</td>
<td>Volunteer Protection Act</td>
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<tr>
<td>Comm.</td>
<td>Communicable</td>
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<td>Immun.</td>
<td>Immunity</td>
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<td>Sam.</td>
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<td>I. Actor</td>
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<tr>
<td><strong>Individuals</strong></td>
<td></td>
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<tr>
<td>Licensed HCW</td>
<td>✔PREP Act¹</td>
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<td>FTCA²</td>
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<td>State VPAs⁵</td>
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<td>Non-licensed HCW</td>
<td>✔PREP Act¹</td>
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<td>Fed. VPA¹⁵</td>
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<td>Immun. for First Responders¹⁶</td>
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<td>Volunteer</td>
<td>✔PREP Act¹</td>
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<tr>
<td>Federal</td>
<td>State</td>
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<td><strong>Entities</strong></td>
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</table>

**Gov't Agency**
- PREP Act
- The Stafford Act
- FTCA
- Sovereign Immunity

**Hospital/Health Care Entity**
- PREP Act
- Actions via Government Contracts
- Common Law Charitable Immunity
- Good Samaritan Laws

**Non-profit Entity**
- PREP Act
- Common Law Charitable Immunity

**For-profit Entity**
- PREP Act

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1 42 U.S.C.A. § 247d-6d (2013). The PREP Act provides immunity from suits and liability related to covered countermeasures to all
covered entities and persons that manufacture, distribute, prescribe, administer, or dispense countermeasures, and program
planners, as well as their agents, officials, and employees, absent willful misconduct. To trigger the PREP Act’s protections, the
Secretary of the Department of Health and Human Services must first make a “determination” that a disease or other health condition
or other threat to health constitutes a public health emergency, or that there is a credible risk that the disease, condition, or threat
may in the future constitute such an emergency. Then, the Secretary may make a “declaration” recommending the manufacture,
testing, development, distribution, administration, or use of one or more covered countermeasures, and stating that immunity from
liability is in effect with respect to the activities so recommended.

2 28 U.S.C.A. §§ 2671–2680. FTCA immunizes federal government employees acting within the scope of their employment from tort
liability for claims arising out of the performance or nonperformance of a discretionary function. FTCA also provides liability
protections for certain federally-funded health centers and their employees under Federally Supported Health Centers Assistance

3 42 U.S.C.A. § 233. Public Health Service officers and employees are indemnified by the U.S. government for civil claims arising out of
the performance of their service duties.

4 Good Samaritan laws vary considerably by state and provide liability protections to different individuals in specific circumstances,
often those providing spontaneous, uncompensated care at the scene of an emergency. However, some states provide broader
protections. For example, under Georgia’s GA. CODE ANN. § 31-11-8, any person (including EMS personnel and licensed HCWs) who
provides emergency care shall not be liable for damages if they receive no remuneration and provide care in good faith.

5 Texas’ TEX. CIV. PRAC. & REM. CODE § 84.004(c) provides immunity for HCWs serving as a volunteer for a charitable organization if a
claim is based on an act or omission made in the course of volunteer health care services, the services provided are within the
volunteer’s license and the patient signs a written statement acknowledging that care is being provided voluntarily. Florida’s FLA.
STAT. § 768.135 shields from liability all volunteers performing any service for any nonprofit organization or governmental entity
when acting in good faith within the scope of any official duties performed. Pennsylvania’s 42 PA. STAT. ANN. § 8332.4 provides broad
liability protections to volunteers working for a nonprofit or government agency. Arizona’s A.R.S. § 12-982 immunizes volunteers for
acts performed in good faith and within the scope of their official functions and duties for a nonprofit, hospital, or governmental entity.

6 States provide varying degrees of immunity or indemnification for public employees and officials, often through state tort claims acts.
Arkansas’ ARK. CODE ANN. § 19-10-305 provides state officers and employees immunity from liability and suit for claims arising for
actions taken during the scope of their employment.

7 42 U.S.C.A. § 300hh-11(c)(2). For liability purposes, individuals appointed under the National Disaster Medical System and acting
under the appointment are considered employees of the Public Health Service while performing their medical duties as described in

8 42 U.S.C.A. § 300hh-15(h). During a federally-declared public health emergency, individuals may be appointed by the Secretary of
Health and Human Services as intermittent disaster-relief personnel of the Volunteer Medical Reserve Corps. In such a case, they are
considered employees of the Public Health Service and are protected under the Federal Tort Claims Act.

9 Some states may deem volunteers to be employees for liability purposes, extending coverage under EMAC to all volunteers deployed
under the compact. See, e.g., UTAH CODE ANN. § 26-49-301(2).

10 As of 2011, 40 states and DC had enacted legislation based on MSEHPA with 24 enacting § 804 of MSEHPA providing immunity for
state and private actors. For example, Louisiana’s LA. REV. STAT. ANN. § 29:771(B)(2)(c) provides that during a public health
emergency, governmental entities, their agents and officials, and individuals, entities, and employees of entities that render
assistance or advice at the request of a government entity or perform acts under a contract or at the direction of a governmental
entity are not liable for damage and injury resulting from emergency response efforts. See also New Jersey’s N.J. Stat. Ann. § 26:13-
19 including public entity volunteers.

11 Arizona’s ARIZ. REV. STAT. § 36-790 provides civil and criminal immunity to HCWs participating in quarantine or isolation procedures if
they act in good faith.

12 CAL. GOV. CODE § 8659. California Emergency Services Act protects hospitals, physicians, pharmacists, and dentists from civil liability
for services provided during a state of war, emergency, or local emergency at the express or implied request of a state or local official
or agency.
13 Nevada’s NEV. REV. STAT. § 415A.270 adopts the UEVHPA and protects from liability all Volunteer Health Professionals who provide health services, absent willful, wanton, grossly negligent, reckless, or criminal conduct. UEVHPA protects the entities hosting or deploying volunteers from vicarious liability.

14 WYO. STAT. ANN. § 35-4-114. “Health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer” are immune from liability arising from compliance with instructions of the state health officer during a declared public health emergency.

15 Federal Volunteer Protection Act, 42 U.S.C. § 14503(a) (2000), provides liability protection to uncompensated volunteers for nonprofit organizations and governmental entities for acts within volunteer’s scope of duty and licensure (if applicable). Liability protections do not apply to “willful or criminal misconduct, gross negligence, [or] reckless conduct” or harm caused by operation of motor vehicles. New Hampshire has also opted out of the Federal VPA.

16 California’s CAL. HEALTH & SAFETY CODE § 1799.106 provides that individuals (firefighters, police officers, other law enforcement, EMTs, and RNs and public agencies employing them) who provide emergency medical services are not liable for actions performed in good faith. Delaware’s DEL. CODE ANN. tit. 16, § 6801(a) provides liability protections to members or employees of nonprofit volunteer or governmental ambulance, rescue, or emergency units.

17 New York’s N.Y. EXEC. LAW § 29-b(1) provides state, county, and city emergency management directors, personnel, and their agents, and disaster emergency response personnel (including agencies, public officers, employees, and volunteers) the same broad immunities as participants in civil defense drills during official disaster preparedness and response efforts.

18 Maine’s ME. REV. STAT. ANN. tit. 22, § 816(1) provides immunity from civil liability for private institutions and their employees or agents as if they were a state agency or employees for actions related to the control of communicable diseases during a declared extreme public health emergency.

19 New Jersey’s N.J. STAT. ANN. § 26:13-19 provides that public entities and their agents, employees, and volunteers are granted civil immunity for injuries caused in connection with a public health emergency. Immunity also applies to persons or private entities that own property used in response to a public health emergency. Missouri’s MO. ANN. STAT. § 44.023 immunizes volunteer architects, professional engineers, construction contractors, equipment dealers and others as needed during an emergency.

20 Qualified Immunity provides liability protections for official actions of federal and state officials so long as (1) they do not violate constitutional rights and (2) concerning employees, to the extent that they are performing discretionary functions. See Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982); Davis v. Scherer, 468 U.S. 183, 191 (1984).

21 Responding state officers or employees rendering aid to another state pursuant to EMAC are not liable on account of any act or omission in good faith. See New Jersey’s N.J. STAT. ANN. § 38A:20-5.

22 Pub. L. No. 93-288, 42. U.S.C. § 5148, provides that the federal government is not liable for claims based upon the exercise or the failure to exercise a discretionary function or duty of a federal agency or employee in carrying out the Stafford Act.

23 While governments were historically immune from liability, most jurisdictions have waived these protections. Some, however, retain immunity to an extent. Arizona’s ARIZ. REV. STAT. § 12-820.01 provides that public entities are not liable for the acts or omissions of its employees when determining a fundamental governmental policy.

24 California’s CAL. GOV. CODE § 8660 provides immunity to other states and their employees providing aid pursuant to an interstate agreement or compact during an emergency.

25 California’s CAL. GOV. CODE § 8655 provides immunity to the state and its political subdivisions for discretionary functions performed in furtherance of the California Emergency Services Act.

26 Hawaii’s law, HAW. REV. STAT. § 325-20, allows the state’s Director of Health to contract with health care entities to control disease epidemics. Health care providers and facilities acting under contract are immune for injuries resulting from their actions, absent willful misconduct.

27 Texas’ TEX. CIV. PRAC. & REM. CODE § 84.0065 limits the amount of damages hospitals may be held liable for to $500,000 per action.

28 Florida’s FLA. STAT. ANN. § 768.13 Good Samaritan Law provides immunity from civil liability for injuries sustained from medical care or failure to provide such care for hospitals that provide emergency care pursuant to the Emergency Medical Treatment and Active Labor Act (EMTALA).

29 Texas’ TEX. CIV. PRAC. & REM. CODE § 84.0065 limits the amount of damages hospitals may be held liable for to $500,000 per action.

30 New Jersey’s N.J. STAT. ANN. § 2A:53A-7 provides limited immunity to nonprofit corporations, societies or associations organized exclusively for religious, charitable, educational, from suits by beneficiaries of the organization.
North Carolina’s N.C. Gen. Stat. § 166A-19.60 provides immunity to non-profits acting pursuant to the N.C. Emergency Management Act if compensation is no greater than expenses and the organization is working either during a state of emergency or during emergency preparedness training.

Delaware’s Del. Code Ann. tit. 20, § 3144 (2004) provides civil immunity during a state of emergency to private persons, firms and corporation, and their employees and agents who provide assistance or advice at the request of the State or its political subdivisions.