

Resolution 08-02-2009

No Liability For Good Samaritans

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Health and Safety Code section 1799.102 to read as follows:

1 §1799.102.
2 No person who in good faith, and not for compensation, renders emergency care or
3 assistance, medical or nonmedical, at the scene of an emergency shall be liable for any civil
4 damages resulting from any act or omission in the course of rendering emergency care or
5 assistance. The scene of an emergency shall not include emergency departments and other
6 places where medical care is usually offered.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Beverly Hills Bar Association

STATEMENT OF REASONS

Existing Law: The California Supreme Court recently held that Health and Safety Code Section 1799.102 (the Good Samaritan law) applies only to medical care. (*Van Horn v. Watson* (2008) 2008 DJDAR 18512).

This Resolution: This would include non medical emergency care in a non medical emergency, such as a rescue attempt, provided by a person who is acting as a Good Samaritan.

The Problem: The recent Supreme Court case of *Van Horn v. Watson* (2008) 45 Cal.4th 322, held for the first time that the Good Samaritan law does not apply to non medical assistance, including taking a person out of a vehicle after an accident. The decision from the California Supreme Court not only stated that the statute only applied to medical care, but also that it only applied to the scene of a medical emergency. Therefore, the “medical and non-medical” revision is necessary with regard to both the terms “emergency care” and “scene of an emergency.” Research of other state laws specifically includes rescue attempts as protected acts, not just medical emergencies. As Justice Baxter’s dissent in *Van Horn v. Watson* expresses, this is contrary to the plain reading of the code and the public’s understanding of the law. As a result, this amendment is needed to make clear that the “Good Samaritan” law applies to non medical emergencies and to avoid the argument whether the services are medical or non medical or mixed.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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