

## Resolution 08-12-2009

### Reformed Good Samaritan Law

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,
- 3 medical and non medical, at the scene of an emergency shall be liable for any civil damages
- 4 resulting from any act or omission. The scene of an emergency shall not include emergency
- 5 departments and other places where medical care is usually offered.

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

**PROPONENT:** Los Angeles County 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) 45 Cal. 4th 322.)

This Resolution: This would include non medical emergency care provided by a person who is acting as a good Samaritan.

The Problem: The recent Supreme Court case of *Van Horn v. Watson* 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. 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 situations and to avoid the argument whether the services are medical or non medical or mix.

### **IMPACT STATEMENT:**

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

**AUTHOR AND/OR PERMANENT CONTACT:** Marc L. Sallus, Oldman, Cooley, Leighton, Sallus, Gold & Birnberg LLP, 16133 Ventura Boulevard, Penthouse A, Encino, CA 91436-2447, 818/986-8080, fax 818/789-0947, msallus@ocslaw.com.

**RESPONSIBLE FLOOR DELEGATE:** Marc L. Sallus