

JAN 22 2008

A BILL FOR AN ACT

RELATING TO LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Exception to liability for care rendered by
5 health care provider or health care facility during an
6 emergency. (a) For purposes of this section:

7 "Emergency" means an unexpected occurrence involving
8 injury, the threat of injury, or illness to a person or the
9 public due to:

- 10 (1) A natural disaster;
11 (2) Bioterrorism;
12 (3) An act of terrorism;
13 (4) A pandemic; or
14 (5) Any other event of similar nature.

15 "Good faith" has the same meaning as provided in section
16 663-1.5

17 "Health care facility" has the same meaning as provided in
18 section 323D-2.



1 "Health care provider" has the same meaning as provided in
2 section 323D-2.

3 (b) Care during an emergency includes actual assistance or
4 advice offered to avoid, mitigate, or attempt to mitigate the
5 effects of the emergency.

6 (c) Any health care provider or health care facility who
7 in good faith assists any governmental agency or political
8 subdivision pursuant to subsection (d) shall not be liable for
9 any civil damages resulting from the provider's or facility's
10 acts or omissions, unless the provider or facility:

11 (1) Is grossly negligent;

12 (2) Caused the emergency; or

13 (3) Engaged in criminal conduct.

14 (d) The following activities are exempt from liability:

15 (1) Implementation of measures to control the causes of
16 epidemic, pandemic, communicable diseases; or other
17 conditions significantly affecting public health as
18 necessary to protect public health pursuant to section
19 321-1;

20 (2) Investigation, control, and treatment of suspected
21 bioterrorism or disease in response to any public
22 health emergency; or



- 1 (3) Response to:
- 2 (A) A national, state, or county emergency;
- 3 (B) A public health emergency; or
- 4 (C) A declaration of the President of the United
- 5 States or other federal official requesting
- 6 public health related activities.
- 7 (e) The immunity in this section is in addition to any
- 8 immunity protections that may apply in state or federal law."

9 SECTION 2. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun, before its effective date.

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Theranne Chun Oakland
Stanley H Baker

Report Title:

Torts; Liability; Health Care Providers; Pandemics

Description:

Exempts from liability emergency care rendered by a health care provider or health care facility in response to specified emergencies.

