

Regular Session, 2008

SENATE BILL NO. 330

BY SENATOR CHAISSON

LIABILITY. Provides relative to limitation of liability for medical services during a declared state of emergency. (gov sig)

1 AN ACT

2 To enact R.S. 37:1731.1, relative to limitation of liability; to provide relative to medical  
3 services performed during a declared state of emergency; to provide certain  
4 limitations of liability; to provide definitions, terms, and conditions; to provide for  
5 an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:1731.1 is hereby enacted to read as follows:

8 **§1731.1. Medical services during declared state of emergency; limitation of**  
9 **liability**

10 **A. Medical personnel who, in good faith and regardless of compensation,**  
11 **render or fail to render emergency care, health care services or first aid during**  
12 **a declared state of emergency when such state of emergency affects the**  
13 **rendering of such medical care shall not be liable for any civil damages or**  
14 **injury as a result of any act or omission related to such rendering of or failure**  
15 **to render services, unless the damages or injury was caused by gross negligence**  
16 **or willful misconduct.**

17 **B. As used herein:**

1                   **(1) "Declared state of emergency" shall mean a declaration of the**  
 2                   **governor as provided in R.S. 29:724. It shall include the area subject to such**  
 3                   **declaration.**

4                   **(2) "Emergency" shall have the meaning set forth in R.S. 29:723.**

5                   **(3) "Health care services" means any act or treatment performed or**  
 6                   **furnished or which should have been performed or furnished, by a health care**  
 7                   **provider for, to, or on behalf of a patient during a patient's medical care or**  
 8                   **treatment.**

9                   **(4) "Medical personnel" means a person subject to the provisions of R.S.**  
 10                   **37:1731 whose liability is limited for the performing of gratuitous services at the**  
 11                   **scene of an emergency.**

12                   **(5) "During a declared state of emergency" means the time period as set**  
 13                   **forth in the declaration of the emergency and shall be retroactive to the**  
 14                   **precipitating event requiring the declaration.**

15                   Section 2. This Act shall become effective upon signature by the governor or, if not  
 16                   signed by the governor, upon expiration of the time for bills to become law without signature  
 17                   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 18                   vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 19                   effective on the day following such approval.

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The original instrument was prepared by Angela Lockett De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Camille Sebastien Perry.

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#### DIGEST

Chaisson (SB 330)

Proposed law relative to limitation of liability provides that medical personnel who, in good faith and regardless of compensation, render or fail to render emergency care, health care services or first aid during a declared state of emergency when such state of emergency affects the rendering of such medical care shall not be liable for any civil damages or injury as a result of any act or omission related to such rendering of or failure to render services, unless the damages or injury was caused by gross negligence or willful misconduct.

Proposed law provides following definitions:

- (1) "Declared state of emergency" shall mean a declaration of the governor as provided in R.S. 29:724.

- (2) "Emergency" shall have the meaning set forth in R.S. 29:723.
- (3) "Health care services" means any act or treatment performed or furnished or which should have been performed or furnished, by a health care provider for, to or on behalf of a patient during a patient's medical care or treatment.
- (4) "Medical personnel" means a person subject to the provisions of R.S. 37:1731 whose liability is limited for the performing of gratuitous services at the scene of an emergency.
- (5) "During a declared state of emergency" means the time period as set forth in the declaration of the emergency and shall be retroactive to the precipitating event requiring the declaration.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 37:1731.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

- 1. Revises definition of "Declared state of emergency."
- 2. Adds definition of "During a declared state of emergency."
- 3. Provides for technical changes.