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DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 147

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO EXEMPTIONS FROM LIABILITY FOR INDIVIDUALS RENDERING EMERGENCY CARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 3001G, Title 16 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 3001G. Administration of naloxone by ~~peace officers~~ public safety personnel and the Community-Based  
4     Naloxone Access Program.

5           (a) ~~A peace officer~~ An individual who is public safety personnel is authorized to receive, carry, and administer the  
6     drug naloxone if the ~~peace officer~~ individual has completed a Department-approved training course. For purposes of this  
7     section, “public safety personnel” means as defined under § 9702 of this title.

8           (b) ~~A peace officer~~ Public safety personnel who, acting in good faith and after completing a Department-approved  
9     training course, administers the drug naloxone to an individual whom the ~~officer~~ public safety personnel reasonably  
10    believes to be undergoing an opioid-related drug overdose ~~shall not be~~ is not liable for damages for injuries or death  
11    sustained to the individual in connection with administering the drug, ~~unless it is established that such injuries or death~~  
12    ~~were caused wilfully, wantonly or by gross negligence on the part of the peace officer who administered the drug under §~~  
13    9708 of this title.

14          (c) Nothing in this chapter mandates that ~~any law enforcement~~ an agency require its ~~peace officers~~ public safety  
15    personnel to carry or administer naloxone.

16          (e) DHSS shall create written and uniform treatment and care plans for emergency and critical patients statewide  
17    that constitute the standing orders for the administration of naloxone by ~~peace officers~~ public safety personnel and  
18    participants in the Community-Based Naloxone Access Program. The treatment protocol for naloxone administration under  
19    this chapter must be approved and signed by the State EMS Medical Director, or the Medical Director or the Director of the  
20    Division of Public Health, Department of Health and Social Services. ~~Doctors~~ A doctor prescribing naloxone who, acting  
21    in good faith, directly or by standing order, ~~prescribe or dispense~~ prescribes or dispenses the drug naloxone to a person

who completes an approved-training program who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not be subject to disciplinary or other adverse action under any professional licensing statute, criminal liability, or liable for damages for injuries or death sustained to the individual in connection with administering the drug, unless it is established that such injuries or death were caused wilfully, wantonly, or by gross negligence on the part of the ~~doctors~~ doctor who signed the standing order and protocol.

(f) DHSS is authorized to oversee the implementation and monitoring of the ~~Peace Officer~~ Public Safety Personnel and Community-Based Naloxone Access Programs.

Section 2. Amend Section 6801, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6801. Persons rendering emergency care exempt from ~~liability; Advanced Life Support Standards Committee.~~ liability.

(a) ~~Notwithstanding any inconsistent provisions of any public or private and special law, any person who voluntarily, without the expectation of monetary or other compensation from the person aided or treated, renders first aid, emergency treatment or rescue assistance to a person who is unconscious, ill, injured or in need of rescue assistance, or any person in obvious physical distress or discomfort shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid, emergency treatment or rescue assistance, unless it is established that such injuries or such death were caused wilfully, wantonly or recklessly or by gross negligence on the part of such person. This section shall apply to members or employees of nonprofit volunteer or governmental ambulance, rescue or emergency units, whether or not a user or service fee may be charged by the nonprofit unit or the governmental entity and whether or not the members or employees receive salaries or other compensation from the nonprofit unit or the governmental entity. This section shall not be construed to require a person who is ill or injured to be administered first aid or emergency treatment if such person objects thereto on religious grounds. This section shall not apply if such first aid or emergency treatment or assistance is rendered on the premises of a hospital or clinic.~~

(b) ~~For the purpose of assisting the Board of Medical Licensure and Discipline in developing standards for advanced life support services, there is hereby created the Advanced Life Support Standards Committee. The Standards Committee shall be composed of the Chairperson and 20 members. The Chairperson will be appointed by the Board of Medical Licensure and Discipline. The 20 members shall be selected from names submitted to the Board of Medical Licensure and Discipline by resolution of the following respective organizations:~~

- (1) Three representatives of the American College of Emergency Physicians (1 representing each county);
- (2) One representative from the American College of Surgeon's Committee on Trauma;
- (3) One representative from the Medical Society of Delaware;
- (4) One representative from the Delaware Chapter of the Emergency Department Nurses Association;
- (5) Three active practicing ambulance attendants, 1 from each county, appointed by respective County Firefighter's Association;
- (6) One representative from the State of Emergency Medical Services Office;
- (7) One representative from the State Fire Prevention Commission;
- (8) One representative from New Castle County government;
- (9) One representative from Kent County government;
- (10) One representative from Sussex County government;
- (11) One representative from the City of Wilmington;
- (12) One representative from the City of Dover;
- (13) One representative from Delaware Chapter of the American Heart Association;
- (14) One representative from the Bureau of Health, Planning, and Resources Development Division of the State Department of Health and Social Services;
- (15) One representative from Delaware State Fire School;
- (16) One practicing paramedic, certified and employed in the State. The chief or director of each county

paramedic service shall submit 1 name for selection to the Board of Medical Licensure and Discipline.

Each representative shall serve at the pleasure of the organization which representative represents and representative's successor shall be chosen in a like manner. The Standards Committee will meet at the call of the Chairperson of the Standards Committee or the Chairperson of the Board of Medical Licensure and Discipline.

The Standards Committee shall provide technical assistance for establishment of minimum standards for advanced life support services, and review curricula for training programs submitted to the Board of Medical Licensure and Discipline referring them back to the Board with appropriate recommendations.

(a) Any lay individual who in good faith, without the expectation of monetary or other compensation from the individual aided or treated, renders emergency care or rescue assistance at the scene of any emergency or who undertakes to transport any victim thereof to the nearest medical facility is not liable for any civil damages as a result of any act or

omission in rendering the emergency care unless it is established that the injuries or death were caused wilfully, wantonly, or recklessly or by gross negligence.

(b) This section may not be construed to require a lay individual to administer first aid or emergency care to another if the other individual objects.

Section 3. Amend Chapter 97, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 9702. Definitions.

As used in this subchapter:

( ) "Law-enforcement officer" means a sworn member of a police force or other law-enforcement agency of this State, or of any county or municipality within this State, who is responsible for the prevention and detection of crime and the enforcement of the laws of this State, or the laws of any county or municipality within this State.

(21) "Public safety personnel" shall mean law-enforcement officers, lifeguards, park rangers, firefighters, ambulance and rescue personnel, communications and dispatch specialists, and other public employees and emergency service providers charged with maintaining the public safety.

Section 4. Amend Chapter 97, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9708. Public safety personnel rendering emergency care exempt from liability.

(a) Public safety personnel who in good faith renders emergency care or rescue assistance at the scene of any emergency or who undertakes to transport any victim thereof to the nearest medical facility is not liable for any civil damages as a result of any act or omission in rendering the emergency care if all of the following apply:

(1) The public safety personnel has any required, relevant, current training or certification.

(2) The public safety personnel did not cause the injuries or death wilfully, wantonly, or recklessly or by gross negligence.

(b) This section may not be construed to require public safety personnel to administer first aid or emergency care to an individual who is ill or injured if such individual objects.

Section 5. Amend Chapter 97, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9709. Advanced Life Support Standards Committee.

(a) The Advanced Life Support Standards Committee is created for the purpose of assisting the Board of Medical Licensure and Discipline in developing standards for advanced life support services. The Standards Committee is composed

of the Chairperson and 20 members. The Board of Medical Licensure and Discipline shall appoint the Chairperson. The Board of Medical Licensure and Discipline shall select the other members of the Standards Committee from the names submitted to the Board by resolution of the following organizations:

(1) The American College of Emergency Physicians, 3 members with 1 member representing each county.

(2) The American College of Surgeon's Committee on Trauma, 1 member.

(3) The Medical Society of Delaware, 1 member.

(4) The Delaware Chapter of the Emergency Department Nurses Association, 1 member.

(5) Sussex County Firefighter's Association, 1 member who is an active practicing ambulance attendant.

(6) Kent County Firefighter's Association, 1 member who is an active practicing ambulance attendant.

(7) New Castle County Firefighter's Association, 1 member who is an active practicing ambulance attendant.

(8) The State of Emergency Medical Services Office, 1 member.

(9) The State Fire Prevention Commission, 1 member.

(10) New Castle County government, 1 member.

(11) Kent County government, 1 member.

(12) Sussex County government, 1 member.

(13) The City of Wilmington, 1 member.

(14) The City of Dover, 1 member

(15) The Delaware Chapter of the American Heart Association, 1 member.

(16) The Division of Public Health, 1 member.

(17) Delaware State Fire School, 1 member.

(18) The chief or director of each county paramedic service shall submit 1 name of a practicing paramedic, certified and employed in the State for selection to the Board of Medical Licensure and Discipline.

From these 3 names, 1 member.

(b) Each member serves at the pleasure of the organization that member represents and each member's successor shall be chosen in a like manner. The Standards Committee shall meet at the call of the Chairperson of the Standards Committee or the Chairperson of the Board of Medical Licensure and Discipline.

(c) The Standards Committee shall provide technical assistance to the Board of Medical Licensure and Discipline regarding all of the following:

- 140                   (1) Establishing of minimum standards for advanced life support services.
- 141                   (2) Reviewing curricula for training programs submitted to the Board of Medical Licensure and
- 142                   Discipline.
- 143                   (3) Providing recommendations on proposed curricula for training programs.

### SYNOPSIS

Immunity from liability for individuals rendering emergency care is addressed in many sections of the Delaware Code. There are several separate statutes providing immunity for specific professions and even for lay individuals providing specific types of assistance. Section 6715 of Title 16 provided immunity to “Firemen, policemen or volunteer ambulance or rescue squad members rendering emergency care” until it was transferred to § 6801 of Title 16 in 1971. Section 3001G of Title 16 provides immunity to peace officers who administer naloxone to an individual whom the officer believes is undergoing an opioid-related drug overdose.

Currently, 1 statute, § 6801 of Title 16, addresses 3 topics: (1) lay person, Good Samaritan, immunity for rendering emergency care; (2) emergency responder immunity for rendering emergency care; and (3) the establishment of the Advanced Life Support Standards Committee. The current statute does not clearly identify the emergency responders that are provided immunity and, because of changes in how emergency services are funded, could be interpreted to exclude any person receiving compensation for their work, including firefighters and police officers.

This Act amends § 3001G of Title 16 to include all public safety personnel and to reference the general immunity statute for public safety personnel, which provides the exact same level of immunity, to avoid potential conflicts between the immunity statutes and provide consistent immunity protection public safety personnel. Section 3001G of Title 16 does not need to specifically provide immunity to lay individuals who administer naloxone under the Community-Based Naloxone Access Program because lay individuals have immunity for administering naloxone under the general Good Samaritan statute, § 6801 of Title 16.

This Act clarifies § 6801 of Title 16 by breaking it into 3 different statutes, 1 statute for each topic, but does not substantively change the law because this Act:

- (1) Clarifies the individuals covered by the statute without conflicting with the other immunity statutes across the Delaware Code.
- (2) Does not change the acts for which individuals have immunity and thus continues to provide immunity for acts such as administering CPR or naloxone.
- (3) Does not change who is intended to be covered by the current language § 6801 of Title 16.
- (4) Does not change the standard for immunity. As in the current law, the individual only has immunity if the individual did not cause the injuries or death wilfully, wantonly, or recklessly or by gross negligence.
- (5) Clarifies that lay individuals have immunity when rendering emergency care.
- (6) Clarifies that public safety personnel rendering emergency care have immunity if the individual has current, relevant training or certification.

Specifically, this Act:

- (1) Amends § 3001G of Title 16 to include all public safety personnel and to reference the general immunity statute for public safety personnel and makes technical corrections to § 3001G of Title 16 to conform to the standards of the Legislative Drafting Manual.
- (2) Revises § 6801 of Title 16 so that it continues to provides immunity to lay individuals, also known as Good Samaritans, who render emergency care. It uses the same immunity standard as in the current § 6801 of Title 16.
- (3) Moves the immunity for emergency responders to Chapter 97 of Title 16, the Emergency Medical Services Systems Chapter. This allows the definitions in Chapter 97, Title 16 to apply to the immunity provision so it is consistent and clear that public safety personnel mean law-enforcement officers, lifeguards, park rangers, firefighters, ambulance and rescue personnel, communications and dispatch specialists, and other public employees and emergency service providers charged with maintaining the public safety. It uses the same immunity standard as in the current § 6801 of Title 16.
- (4) Continues to use a general statement of emergency care or rescue assistance rather than list specific acts. This allows the law to cover any situation, whether or not the specific nature of the assistance is anticipated by the General Assembly, and allows for the law to cover new medical treatment or forms of assistance.
- (5) Provides a definition for the term law-enforcement officers in Chapter 97 of Title 16, where the term is used but not defined.

(6) Removes language from the current statute that excludes care provided on the premises of a hospital or clinic because that distinction is not necessary after the statute is separated to clearly define who receives immunity under this statute. In addition, other sections of the Delaware Code provide immunity for physicians, nurses, and physician assistants who provide emergency care, so those individuals no longer need to be included in this section for when they provide assistance outside of their places of employment.

(7) Does not require lay individuals to have training to have immunity but does require that public safety personnel have any current training that is required and relevant to the assistance provided to have immunity. This is because public safety personnel acting in their official capacity often receive some form of compensation for the assistance.

(8) Moves the Advanced Life Support Standards Committee to Chapter 97 of Title 16 and makes technical corrections to the language in the current § 6801 of Title 16 to conform to the standards of the Delaware Legislative Drafting Manual and to accurately refer to the Division of Public Health, but does not make any substantive changes.

Author: Senator Delcollo