



# Colorado's Good Samaritan Laws

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Colorado has a variety of statutes that shield volunteers from tort liability. These Good Samaritan statutes, as they are commonly referred to, seek “to encourage prompt emergency care by granting immunity from civil damages and removing the fear of liability.”<sup>1</sup> Such statutes vary in degree and complexity and contain various exceptions to the prescribed immunity.

A Good Samaritan action is broadly defined as a “deed performed gratuitously by a person to help another who is in peril.”<sup>2</sup> Good Samaritan laws are statutes that shield from liability people who help others in time of need or distress. That is, they generally exempt from liability a person “who voluntarily renders aid to another in imminent danger but negligently causes injury while rendering the aid.”<sup>3</sup> All 50 states have some form of Good Samaritan laws,<sup>4</sup> and Colorado has long sought to shield Good Samaritans from liability exposure.<sup>5</sup> The details of, and exceptions to, this immunity vary greatly based on the nature and type of Good Samaritan action.

Good Samaritan statutes typically address one of two situations: (1) the provision of emergency medical services and (2) volunteer rescue efforts.<sup>6</sup> But they also cover a wide range of volunteers and actions—from ski patrollers and those who respond to terrorist threats or toxic spills, to donating firefighting equipment or volunteering as a crossing guard. Although they apply to a multitude of actions, Good Samaritan statutes typically follow a discernable pattern. They generally prescribe (1) who is protected; (2) what action is protected (this may limit protection to a specific location, such as the scene of an emergency); and (3) in what manner that action must be conducted (typically, in good faith).

Similarly, the limitations or exceptions to the immunities are mostly the same. First, Good Samaritan statutes usually do not protect

people who are compensated for their efforts. Second, they generally do not protect those who act willfully and wantonly, or those who are grossly negligent. That said, permutations in the scope and immunity in the statutes abound. For example, some only apply to civil liability, while others extend to civil and criminal liability. What’s more, several statutes only immunize individual volunteers, while others protect both individuals and entities engaged in such efforts.

Colorado Good Samaritan statutes also vary in length and complexity. Some, such as the law immunizing crisis counselors from liability, are simple subsections within a more comprehensive statutory scheme.<sup>7</sup> In contrast, the statute protecting those who rescue domestic animals or children from a locked car is much more intricate, containing several subsections that prescribe the many conditions precedent necessary for the putative Good Samaritan to be protected from liability.<sup>8</sup> This article focuses on Colorado’s Good Samaritan statutes, but there are also some related federal protections for volunteers that are beyond the scope of this article.<sup>9</sup>

### The History of Good Samaritan Statutes and the Rescue Doctrine

Before Good Samaritan statutes existed, the common law “rescue doctrine” embodied in the *First Restatement of Torts* applied.<sup>10</sup> Under the rescue doctrine,

where a person, being under no duty to do so, takes charge of another person who cannot adequately protect himself, the person rendering the aid is subject to liability only for bodily injury caused by him through his failure to exercise reasonable care to secure the safety of the other person while within the benefactor’s charge.<sup>11</sup>

Because of the rescue doctrine’s potentially harsh results, in 1959 state legislatures began to enact Good Samaritan “statutes generally [to]

attempt to eliminate the perceived inadequacies of the common-law rules, under which a volunteer, choosing to assist an injured person although having no duty to do so, was liable for failing to exercise reasonable care in providing the assistance.”<sup>12</sup> Although the rescue doctrine was not well-developed in Colorado until the 2020 Supreme Court case *Garcia v. Colorado Cab Co.*, the doctrine appears alive and well in situations not covered by a Good Samaritan statute.<sup>13</sup>

### The Two Central Good Samaritan Statutes

Colorado’s Good Samaritan laws generally fall into two categories: (1) those that shield the voluntary provision of emergency medical services and (2) those that shield the actions of volunteer rescue personnel. As expected, these categories often overlap throughout Colorado statutes. The two Good Samaritan statutes in Colorado that cover the most common situations where a volunteer could be exposed to liability are the emergency assistance statute and the voluntary provision of services statute.

#### Emergency Assistance Statute

The emergency assistance statute provides immunity in four different circumstances.

**Emergency care.** The emergency care statutory provision applies to a person rendering emergency care without compensation at the place of an emergency or accident.<sup>14</sup> It protects not only physicians but also “any other person.”<sup>15</sup> There are some limitations. The protections only apply to care for a person “not presently” the patient of the person rendering assistance.<sup>16</sup> And it only applies to “acts or omissions made in good faith.”<sup>17</sup> Moreover, there is no liability protection for acts or omissions that are “grossly negligent or willful and wanton.”<sup>18</sup> And even though the Good Samaritan must render the care “without compensation,” it is implied that

Person or Activity Covered	Citation	Civil Immunity?	Criminal Immunity?	Good Faith Requirement?	Exception for Willful and Wanton Type Conduct
Administering opiate antagonist	CRS § 13-21-108.7	Yes	No	Yes	None
AED in emergency care	CRS § 13-21-108.1	Yes	No	Yes	Grossly negligent or willful and wanton
Architects and engineers at an emergency	CRS § 13-21-108.3	Yes	No	No	Gross negligence or willful
Community kitchen	CRS § 13-21-113.5	Yes	Yes	Not explicit	Gross negligence or intentional
Crisis counseling	CRS § 13-21-108(4)	Yes	No	Yes	None
Disaster response	CRS § 24-33.5-1505	Yes	No	No	Various, depending upon parties and claims
Donation of food	CRS § 13-21-113(1)	Yes	Yes	No	Willful, wanton, or reckless
Donation of firefighting equipment	CRS § 13-21-113.3	Yes	Yes	No	Grossly negligent, willful, wanton, or reckless
Emergency medical assistance	CRS § 13-21-108(1)	Yes	No	Yes	Grossly negligent or willful and wanton
Emergency care in competitive sports	CRS § 13-21-108.2	Yes	No	Yes	Gross negligence or willful and wanton
Epinephrine auto-injector	CRS § 25-47-107	Yes	Yes	No	Grossly negligent or willful and wanton
Firefighters	CRS § 13-21-113.7	Yes	No	Yes	Grossly negligent, willful, wanton, or reckless
Hazardous material cleanup	CRS § 13-21-108.5	Yes	No	No	Gross negligence or reckless, wanton, or intentional
Land stewardship volunteers	CRS § 33-11-113	Yes	No	No	Gross negligence or willful and wanton
Mine rescue	CRS § 13-21-114	Yes	No	Yes	None
Nonprofit board of directors	CRS § 13-21-116(2)(b)	Yes	No	No	Wanton and willful
Nonprofit directors and officers	CRS § 13-21-115.7	Yes	No	No	Willful and wanton
Opiate detection test	CRS § 13-21-108.8	Yes	No	Yes	None
Rescue from locked car	CRS § 13-21-108.4	Yes	Yes	Not explicit	Not explicit
School crossing guard	CRS § 13-21-115.6	Yes	No	No	Willful and wanton
Search and rescue	CRS § 13-21-108(2)	Yes	No	Yes	None
Ski patrol	CRS § 13-21-108(3)	Yes	No	Yes	None
Veterinarians	CRS § 12-315-117	Yes	No	Yes	Wanton or reckless
Volunteers	CRS § 13-21-115.5	Yes	No	Yes	Willful and wanton
Voluntary provision of services	CRS § 13-21-116(2)(a)	Yes	No	Yes	None
Youth program volunteers	CRS § 13-21-116(2.5)	Yes	No	No	Wanton and willful

the Good Samaritan can be employed at the time of rendering the emergency care under this subsection, as the Good Samaritan's employer is likewise immune.<sup>19</sup>

**Search and rescue.** The search and rescue statutory provision applies to volunteer members of any nonprofit organization whose purpose is to search for and rescue lost or injured people.<sup>20</sup> This includes, among other groups, "search and rescue, mountain rescue, [and] ski patrols."<sup>21</sup> Like other Good Samaritan laws, immunity applies even if the search and rescue organization recovers actual costs for providing the search and rescue emergency care or assistance.<sup>22</sup> Volunteers are protected from lawsuits for their acts or omissions at the place of the emergency or accident,<sup>23</sup> but only if they act "in good faith."<sup>24</sup>

**Ski patrol.** There is a specific provision protecting volunteer ski patrollers,<sup>25</sup> though as noted above, the search and rescue provision also includes ski patrollers.<sup>26</sup> This provision protects volunteer ski patrollers and ski area rescue units, including any licensed physicians, even if they receive free skiing privileges or other benefits because of their volunteer status.<sup>27</sup> Volunteers are protected for their acts and omissions associated with their emergency care or assistance at the place of the emergency or accident.<sup>28</sup> This protection is limited to acts or omissions performed "in good faith."<sup>29</sup>

**Crisis counseling.** Any volunteer who provides crisis counseling is immune from liability.<sup>30</sup> This includes "hotline" operators and people who are reimbursed or are provided funding for such counseling.<sup>31</sup> For volunteers to be protected, such counseling must be done in good faith.<sup>32</sup>

### **Voluntary Provision of Services Statute**

The voluntary provision of services statute protects individuals who voluntarily assist others. To "encourage the provision of services or assistance by persons on a voluntary basis," this key statute eliminates "a duty of care where none otherwise existed."<sup>33</sup> This statute only applies when the service or act of assistance is "without compensation or expectation of compensation" for either the benefit of another person or to enforce a policy or regulation to protect health or safety.<sup>34</sup> For instance, in *Jefferson County*

*School District R-1 v. Justus By & Through Justus*, a first-grade student was injured when riding his bicycle home from school. His school had distributed a handbook that prohibited students in lower grades from riding their bicycles to and from school and stationed teachers in front of the school to enforce this rule. However, it also required parents to sign an acknowledgment that they received the handbook. The Colorado Supreme Court held that there was a genuine issue of material fact as to whether the injured child's school assumed a duty to enforce this rule.<sup>35</sup> In another example, the Court found that real estate agents who said they would obtain an unencumbered title for their client allegedly without cost were liable for failing to secure the unencumbered title.<sup>36</sup>

Interestingly, although liability is limited to "acts or omissions in good faith," this statute does not contain the willful and wanton exception found in most of the other statutes.<sup>37</sup> This may open the door for a defendant to seek protection of the statute without such an exception, but given the good faith requirement, such a finding ought to be unlikely.<sup>38</sup>

This statute has often been used—without success—as a defense to liability in commercial situations. Generally, this defense is unsuccessful either because the party invoking the statute was found to have been compensated or the allegedly protected conduct did not pertain to public safety. For example, the Colorado Court of Appeals rejected a real estate broker's attempt to use this statute as a shield where the real estate broker received compensation in the form of real estate brokerage commissions and her efforts were not to protect public safety.<sup>39</sup> In another case, where defendants received indirect compensation by encouraging plaintiffs to make various investments, the Colorado federal district court found that this statute did not apply.<sup>40</sup> That court also found that the statute did not provide a basis for a plaintiff's negligence claim against the Small Business Administration for initially providing assistance but later failing to provide further assistance because "under traditional common law principles, liability for mere nonfeasance is the exception, rather than the rule" and thus, "such a theory is not viable under Colorado law."<sup>41</sup> Similarly, the Colorado

Supreme Court denied certiorari to determine whether this statute precluded the imposition of an assumed duty on a mall security guard who allegedly did not prevent an intoxicated person from driving her own car.<sup>42</sup> As to be expected, this statute cannot be used to preclude liability for failing to perform a preexisting legal duty, such as an electrical company's duty to mark electrical transmission lines with which a helicopter later collided.<sup>43</sup>

Notably, the protection of this statute may be modified by contract. For example, where the parents of a child who was injured in a sledding accident with his scout troop sued the troop for loss of the child's consortium, the court did not consider the application of this statute due to a clause in the troop's insurance contract.<sup>44</sup>

### **Other Volunteer Emergency Medical Services Statutes**

The statutes discussed below protect volunteers providing specific emergency medical services. Many of these provisions could overlap with the emergency assistance statute or other laws. For example, a physician spectator at a sports game who uses an automated external defibrillator (AED) on an athlete who suffered from cardiac arrest would be protected by at least three different statutes.<sup>45</sup>

**AED in emergency care.** Any person or entity who uses an AED in emergency care is not liable for such care.<sup>46</sup> To be immune, the person or entity using the AED must have used it in good faith and without compensation.<sup>47</sup> Here, the legislature wanted "to encourage the use of [AEDs]" to save people "in cardiac arrest."<sup>48</sup> However, this statute also regulates AED devices and the acquisition and maintenance thereof.<sup>49</sup> This immunity does not apply if such use is "grossly negligent or willful and wanton."<sup>50</sup>

**Emergency care in competitive sports.** Licensed healthcare professionals, such as doctors and nurses, who provide emergency care to participants in competitive sports, are not liable for injuries caused by providing such care.<sup>51</sup> "[C]ompetitive sports" means any organized sporting event, whether sanctioned by a public or private school or college, "league, club, or organization."<sup>52</sup> Like many Good Samaritan statutes, this statute requires that such care be

done in good faith and without compensation.<sup>53</sup> This includes care given to a minor, unless the minor's parent or guardian refuses such care before it is given.<sup>54</sup> The caregiver will not be immune in instances where the caregiver provides care (1) with gross negligence or willful and wanton conduct, or (2) outside the scope of their license.<sup>55</sup>

**Administering opiate antagonist.** Any person who administers or assists in administering an opiate antagonist (e.g., naloxone hydrochloride)<sup>56</sup> to someone believed to be overdosing from an opiate is not liable for such administration or "if the opiate antagonist is stolen, defective, or produces an unintended result."<sup>57</sup> This is true even if the opiate antagonist is expired.<sup>58</sup> This also extends to those licensed by the state of Colorado to prescribe or dispense an opiate antagonist, including liability for "[a]ny outcomes resulting from the eventual administration of [it] by a layperson."<sup>59</sup> For immunity to apply, the person must have administered the opiate antagonist in good faith.<sup>60</sup> Interestingly, this statute does not provide an exception for grossly negligent or willful and wanton conduct.<sup>61</sup> Whether the absence of a grossly negligent or willful and wanton conduct exception creates a meaningful difference in the applicability and the scope of the immunity granted by this statute is unclear.<sup>62</sup>

**Opiate detection test.** Any person or entity who furnishes a non-laboratory synthetic opiate detection test to another person is not liable for such testing if "the test is stolen, defective, or produces an inaccurate result."<sup>63</sup> A synthetic opiate detection test is a product "intended or designed to detect the present of a synthetic opiate."<sup>64</sup> The person or entity must have given the synthetic opiate detection test in good faith.<sup>65</sup> Such person or entity is immune even if the test is expired.<sup>66</sup> However, this immunity does not include the manufacturer of the test.<sup>67</sup>

**Epinephrine auto-injector.** Certain individuals or entities may be immune from liability for harm caused by prescribing, possessing, administering, providing, or using an epinephrine auto-injector.<sup>68</sup> This immunity applies to both criminal and civil liability.<sup>69</sup> This immunity does not extend to acts or omissions that are "grossly negligent or willful and wanton."<sup>70</sup>

### **Other Volunteer Rescue Personnel Statutes**

In addition to the primary statute that protects ski patrol and search and rescue volunteers, Colorado has two other statutory provisions that protect volunteer rescue personnel.

**Firefighters.** Colorado's volunteer firefighter statute protects volunteers who take part in firefighting efforts or provide emergency care, rescue, assistance, or recovery services at the scene of an emergency.<sup>71</sup> Volunteers are protected even if they are reimbursed for actual expenses incurred or receive certain benefits.<sup>72</sup> Unlike many other statutes discussed in this article that do not define "emergency," the volunteer firefighter statute defines "emergency" to include, among other things, a fire, fire alarm response, motor vehicle accident, natural disaster, terrorist attack, hazardous materials incident, or disease or biological agent outbreak.<sup>73</sup> The statute also protects any incident management team and any person directing the volunteers.<sup>74</sup> An incident management team includes "persons engaged in backcountry search and rescue efforts."<sup>75</sup>

The statute immunizes those in its scope as long as they act "in good faith."<sup>76</sup> However, it does not immunize volunteers from "grossly negligent, willful, wanton, or reckless acts or omissions."<sup>77</sup> Notably, when both this statute and Colorado's Governmental Immunity Act apply, whichever one provides "the greatest immunity" governs.<sup>78</sup> Similarly, this statute does not alter protections in other applicable Good Samaritan Statutes discussed throughout this article.<sup>79</sup>

**Mine rescue.** Any person who gives or helps provide emergency care or similar services in good faith at a mine emergency, rescue, or recovery is immune from civil damages for any act or omission in giving such care or help.<sup>80</sup>

### **Other Emergency Response Good Samaritan Statutes**

In addition to the various provisions described above, several Colorado statutes protect volunteers responding to emergencies that may not fit the typical medical or rescue scenarios. Protection for liability can extend to certain licensed professionals (other than regular

medical or rescue personnel), individuals providing disaster relief, and those rescuing a child or pet from a vehicle.

### **Other Licensed Professionals Responding to Emergencies**

Any architect, building code official, professional engineer, or professional land surveyor who provides architectural, damage assessment, engineering, or surveying services at the scene of an emergency is not liable for any personal injury, wrongful death, property damage, or other loss caused by their acts or omissions.<sup>81</sup> To be immune, such services must be done voluntarily and without compensation.<sup>82</sup> Such persons are not immune for misconduct that is grossly negligent or willful.<sup>83</sup>

Additionally, any veterinarian who administers emergency care or treatment, including euthanasia for humane reasons, is not liable for any civil damages as a result.<sup>84</sup> Such emergency care or treatment must be done in good faith and without compensation.<sup>85</sup> This can be done voluntarily or at the request of a state or local governmental officer or employee.<sup>86</sup> This does not cover "wanton or reckless disregard of the rights of the owner of the animal."<sup>87</sup>

### **Disaster Relief**

Two Colorado statutes provide immunity to those who aid in disaster relief. The first applies to those who help plan or respond to a variety of disasters, including hazardous materials spills and terrorism acts or threats. This is one of the more complex Good Samaritan statutes. Section 1 protects from liability any state or local agency engaged in emergency planning, service, or response regarding hazardous material release, the threat of such release, or act of terrorism, for any death or injury to person, property, or the environment.<sup>88</sup> This protection from liability covers local emergency planning committees, citizen corps council, fire protection districts, and volunteer fire, ambulance, or emergency service and rescue groups, as well as their officers, directors, employees, and volunteers.<sup>89</sup> Acts of an insurer or insurance company, corporation, association, or partnership, including any employees, contractors, or agents, acting to protect the insurable private property in-

terests of the insurer are also covered.<sup>90</sup> This immunity does not cover “willful or wanton acts or omissions.”<sup>91</sup>

Many government organizations partner with private organizations to aid in disaster relief, and section 1.5 extends immunity to private organizations (including their officers, directors, employees, or volunteers) working with governmental agencies in such situations.<sup>92</sup> As expected, this immunity does not extend to “willful and wanton acts or omissions.”<sup>93</sup> An insurance company and its agents do not constitute a private organization under this section.<sup>94</sup>

Section (2)(a) provides that state and local commissions and agencies (including their officers, directors, employees, and volunteers) are not liable for death or injury to persons, property, or the environment, when planning for, training for, or responding to any natural disaster, hazardous materials release, public health emergency, or act of terrorism (or threat of any of the same).<sup>95</sup> This immunity does not cover “gross negligence or willful and wanton acts or omissions.”<sup>96</sup> A plaintiff still may sue and recover civil damages related to the negligent operation of a motor vehicle, but like similar statutes, such plaintiff may only recover up to the applicable insurance coverage limits (as well as any applicable uninsured or underinsured motorist coverage).<sup>97</sup>

Section 3 provides that any director or member of a subcommittee or any local emergency planning committee is immune from liability for death or damage to person, property, or environment resulting from any act or omission arising out of the performance of their function, duties, and responsibilities, “except for acts or omissions which constitute willful misconduct.”<sup>98</sup>

The second statute protects qualified persons who help clean up hazardous materials spills. Any person who assists with mitigating, preventing, cleaning, or disposing of the spilling of hazardous waste is not subject to civil liability for such help.<sup>99</sup> “Person” includes individuals as well as government agencies, corporations, partnerships, or any other legal entities.<sup>100</sup> This immunity does not cover “gross negligence or reckless, wanton, or intentional misconduct.”<sup>101</sup> It also does not cover volunteers who receive

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compensation for such efforts (except for reimbursement of out-of-pocket expenses) or those who caused such spill.<sup>102</sup>

#### **Rescue of At-Risk Person or Pet From Car**

The final emergency Good Samaritan statute protects those who rescue an at-risk person, cat, or dog from a locked vehicle. But before you go breaking into cars, heed the many conditions that must be met for immunity to be granted. A person is immune from civil and criminal liability from property damage incurred while rescuing a cat, dog, or at-risk person from a locked car only if the following seven conditions are met:<sup>103</sup>

1. The vehicle must not be a law enforcement vehicle.<sup>104</sup>

2. The person must have a reasonable belief that the animal or at-risk person inside the vehicle is “in imminent danger of death or suffering serious bodily injury.”<sup>105</sup>
3. The person must determine that the vehicle is locked and that forcible entry is necessary.<sup>106</sup>
4. The person must make a reasonable effort to locate the vehicle’s owner, documenting the color, make, model, license plate number, and location of the vehicle.<sup>107</sup>
5. The person must contact appropriate local law enforcement or rescue personnel (including, for example, animal control) before entering the vehicle, or must not interfere with such law enforcement or rescue agent administering assistance.<sup>108</sup>
6. The person must use only the force believed necessary.<sup>109</sup>
7. The person must not leave until law enforcement or rescue personnel has arrived at the scene, unless the person must leave (e.g., go to the hospital or veterinary hospital), in which case the person must leave a note on the vehicle and contact the appropriate law enforcement or rescue personnel, providing their name, contact information, and if applicable, the location of where the person took the animal or at-risk person.<sup>110</sup>

#### **Other Nonemergency Response Good Samaritan Statutes**

Individuals doing good deeds outside of an emergency setting may also find protection from liability. The section below describes statutes that apply to people involved in nonprofit work, donors of materials and food, and other nonemergency volunteers.

#### **Nonprofits**

Directors, officers, and trustees of nonprofit organizations are immune from civil liability for any injuries or damages they cause when they are “acting within the scope of such person’s official functions and duties as a director, officer, or trustee.”<sup>111</sup> This immunity only applies if such directors, officers, and trustees receive no compensation other than reimbursement for actual expenses incurred in attending meetings

or executing such office, the receipt of meals at meetings, or small gifts not exceeding a total of \$1,000 in a 12-month period.<sup>112</sup> Directors, officers, and trustees of nonprofit organizations are not immune from liability for “willful and wanton act[s] or omission[s].” Like some Good Samaritan statutes, this immunity does not extend to damages or injuries caused by the director, officer, or trustee’s “operation of any motor vehicle, airplane, or boat.”<sup>113</sup>

Members of a nonprofit’s board of directors are immune from liability resulting from acts or omissions made in the course of their duties as a board member.<sup>114</sup> This immunity is not extended to acts or omissions that are “wanton and willful.”<sup>115</sup>

**Good Samaritan Statutes Protecting Various Donors**

There are three Colorado statutes aimed at protecting those who donate various goods.

**Donation of food.** Any farmer, retail food establishment, correctional facility, school district, hospital, or food processor, distributor, wholesaler, or retailer that donates food to a nonprofit organization to use or distribute to those in need is immune from both civil and criminal liability resulting from the nature, age, condition, and packaging of the donated foods.<sup>116</sup> This immunity also covers nonprofit organizations that transfer such donations to another nonprofit to be donated to those in need.<sup>117</sup> This immunity does not cover “willful, wanton, or reckless acts” that cause harm to the recipients.<sup>118</sup>

**Donation of firefighting equipment.** Any person or entity that donates surplus firefighting equipment to a fire department is immune from liability for damages caused by the nature, age, condition, or packaging of such equipment.<sup>119</sup> This section immunizes the donor from both criminal and civil liability.<sup>120</sup> This does not cover “the grossly negligent, willful, wanton, or reckless acts of donors that result in injury to recipients of such equipment.”<sup>121</sup>

**Community kitchen.** Finally, a school or nonprofit organization that provides a community kitchen to food makers selling food to sell per the Colorado Cottage Foods Act is immune from both civil and criminal liability resulting

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from the use of its kitchen.<sup>122</sup> This immunity does not apply if (1) the school or nonprofit acted “unreasonably” or (2) the “injury or death of the ultimate user of the product that results from an act or omission of the school or nonprofit organization constituting gross

negligence or intentional misconduct.”<sup>123</sup> The school or nonprofit can require anyone using its kitchen to show proof of liability insurance.<sup>124</sup>

**Other Nonemergency Volunteers**

Nonemergency volunteers working in a variety of capacities are protected from liability.

**“Volunteers.”** Colorado broadly immunizes licensed healthcare volunteers and “volunteers” as defined by the Federal Volunteer Protection Act. The Colorado legislature has found that the willingness of people to volunteer their services has decreased because of the perception that they may become liable for injuries caused while offering their services.<sup>125</sup> Thus, “[i]t is in the public interest to strike a balance between the right of a person to seek redress for injury and the right of an individual to freely give time and energy without compensation as a volunteer.”<sup>126</sup> Therefore, various licensed medical and health professionals and other volunteers who volunteer their services at “a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital without compensation” are immune from any damages or injuries resulting from their services.<sup>127</sup> This includes, for example, physicians, chiropractors, nurses, midwives, physical therapists, optometrists, dentists, psychologists, addiction counselors, and backcountry rescue volunteers.<sup>128</sup> This also includes volunteers as defined by the Federal Volunteer Protection Act, 42 USC §§ 14501 et seq.<sup>129</sup> However, immunity under this section does not cover acts or omissions that are “willful and wanton” or injuries or damages that are caused by the operation of a motor vehicle.<sup>130</sup>

**Youth program volunteers.** Any volunteer with a program or organization that serves “young persons” (age 18 or younger) is not liable for their acts or omissions made in the performance of their duties.<sup>131</sup> This includes teachers, coaches, leaders, assistants, and trainers for any such program (including “sporting programs”), organization, association, or educational, service, social, or recreational group, or any nonprofit organization.<sup>132</sup> This immunity does not extend to acts or omissions that are “wanton and willful” or acts or omissions that “harm third persons.”<sup>133</sup>


**School crossing guards.** Any school crossing guard or its sponsor (e.g., a school district)

is immune from civil liability for any acts or omissions that result in damage or injury if the school crossing guard was acting within the scope of their official duties.<sup>134</sup> This does not cover damages caused by “a willful and wanton act or omission.”<sup>135</sup>

**Land stewardship volunteers.** Finally, any volunteer who is performing “land stewardship services,” in connection with a grant is immune from civil liability for any acts or omissions that cause damage or injury.<sup>136</sup> “Land stewardship” means the design, acquisition, construction, expansion, improvement, maintenance, or operation of a recreational trail, recreational route, or trail corridor; or any structure or facility that is part of, or associated with the public use and enjoyment of, a recreational trail or trail corridor.<sup>137</sup> This section does not apply to land stewardship activities performed on state land.<sup>138</sup> “Volunteer” for this section includes an officer, director, or trustee of a nonprofit organization, or a nonprofit organization.<sup>139</sup> This immunity does not extend to grossly negligent or willful and wanton acts or omissions of individual volunteers or to willful and wanton acts or omissions of officers, directors, and trustees acting within the scope of their official functions, and nonprofits performing land stewardship services.<sup>140</sup>

Like similar statutes, this immunity does not extend to a volunteer operating a motor vehicle “unless the operation of the vehicle is an integral part of, and physically proximate to, a land stewardship activity and within the scope of the volunteer’s designated duties in connection with that activity.”<sup>141</sup> However, such a plaintiff may not recover more than the “limits of applicable insurance coverage” maintained by the volunteer.<sup>142</sup>

### Conclusion

Good Samaritan statutes exemplify a consistent policy of the Colorado state legislature to immunize those who volunteer their time in rendering emergency, rescue, or community services. As a matter of public policy, the legislature has encouraged such reasonable efforts by limiting liability for certain people who reasonably and without compensation help those in need, thus abrogating the potentially harsh results of the antiquated rescue doctrine. Although the approach, reach, and complexity of these statutes are far from uniform, the policy of wanting to protect Good Samaritans and encourage such behavior is clear. Attorneys often think of Good Samaritan statutes as being applicable only in rare situations, but as shown above, they may impact many activities and situations. 

7. CRS § 13-21-108(4)(a).
8. CRS § 13-21-108.4(1)(a)-(2).
9. *E.g.*, the Volunteer Protection Act, 42 USC §§ 14501 to 14505.
10. *Restatement (First) of Torts* §§ 323 to 324 (1934); Grund et al., 7 *Colorado Personal Injury Practice—Torts and Insurance* § 10:13 (Thomson West 3d ed.); Turner, “Dial 911: Emergency Medical Care Providers, Gross Negligence, and the Loophole in the Connecticut Good Samaritan Statute,” 19 *Q. L. Rev.* 419, 462 (2000) (“It is commonly recognized that Good Samaritan statutes abrogate the traditional common-law rescue doctrine.”).
11. *Mendoza v. White Stores, Inc.*, 488 P.2d 90, 92-93 (Colo.App. 1971).
12. Veilleux, *supra* note 1.
13. *Garcia v. Colo. Cab Co.*, 2020 CO 55, ¶ 27 (setting forth a three-part test to determine whether a person qualifies as a rescuer under the rescue doctrine). For more on the rescue doctrine, see Martinez, “The Rescue Doctrine,” 50 *Colo. Law.* 26, 27-30 (Nov. 2021), <https://cl.cobar.org/features/the-rescue-doctrine>.
14. CRS § 13-21-108(1). See also *Eburn v. Capitol Peak Outfitters, Inc.*, 882 F.Supp. 2d 1248, 1255 n. 6 (D.Colo. 2012) (referencing this statute as “Colorado’s ‘Good Samaritan Act,’” but not addressing its applicability); *Gronseth v. Chester Rural Fire Prot. Dist. (In re Certification of a Question of Law)*, 779 N.W.2d 158, 161 (S.D. 2010) (same); *Rra-Shada v. City & Cnty. of Denver*, No. 04-cv-02505, 2005 WL 8171863, at \*11 (D.Colo. Nov. 23, 2005), *report and recommendation adopted sub nom. Rrashada v. City & Cnty. of Denver*, 2006 WL 8454311 (D.Colo. Jan. 24, 2006) (holding that this section did not apply where “a civilian [] came to the aid of police officers who were engaged in a physical struggle with a person that they were attempting to arrest”).
15. CRS § 13-21-108(1).
16. CRS § 13-21-108(1). See also *id.* (“This section shall not apply to any person who renders such emergency care or emergency assistance to a patient he is otherwise obligated to cover.”).
17. CRS § 13-21-108(1).
18. *Id.*
19. CRS § 13-21-108(5).
20. CRS §§ 13-21-108(2) and 25-3.5-103(11).
21. CRS § 25-3.5-103(11).
22. CRS § 13-21-108(2).
23. *Id.*
24. *Id.*
25. CRS § 13-21-108(3).
26. CRS §§ 13-21-108(2) and 25-3.5-103(11).
27. CRS § 13-21-108(3).
28. *Id.*
29. *Id.*
30. CRS § 13-21-108(4)(a).
31. CRS § 13-21-108(4)(a)-(b).
32. CRS § 13-21-108(4)(a).
33. CRS § 13-21-116(2)(a). *Accord Combined Commc’ns Corp. v. Pub. Serv. Co. of Colo.*, 865



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### NOTES

1. Veilleux, Annotation, “Construction and Application of ‘Good Samaritan’ Statutes,” 68 ALR 4th 294 (1989).
2. Garner, ed., *Black’s Law Dictionary* (11th ed. Thomson West 2019).
3. *Id.*
4. *Id.*; *Carter v. Reese*, 70 N.E.3d 478, 484 (Ohio 2016) (collecting Good Samaritan statutes from different states).
5. See, e.g., *St. Luke’s Hosp. v. Indus. Comm’n*, 349 P.2d 995, 999 (Colo. 1960) (distinguishing Good Samaritan duties with legal duties).
6. See *Velazquez ex rel. Velazquez v. Jiminez*, 798 A.2d 51, 58 (N.J. 2002) (collecting statutes like CRS § 13-21-108(1) that “immunize emergency care provided in a hospital setting” and those that do not).



- P.2d 893, 897 (Colo.App. 1993); *Concerned Parents of Pueblo, Inc. v. Gilmore*, 47 P.3d 311, 313 (Colo. 2002), as modified on denial of reh'g (June 10, 2002) (holding "that the statute protects only those volunteers who perform services for those organizations" and not the organizations serving young persons); *Cooper v. Aspen Skiing Co.*, 48 P.3d 1229, 1231 n.4 (Colo. 2002), abrogated by statute on other grounds as stated in *Boles v. Sun Ergoline, Inc.*, 223 P.3d 724, 726 (Colo. 2010).
34. CRS § 13-21-116(2)(a).
35. *Jefferson Cnty. Sch. Dist. v. Justus*, 725 P.2d 767, 772 (Colo. 1986).
36. *Lester v. Marshall*, 352 P.2d 786, 790 (Colo. 1960).
37. CRS § 13-21-116(2)(a).
38. This begs the question of either the necessity or the extent of the various "willful and wanton" exceptions in the context of the good faith requirements.
39. *Messler v. Phillips*, 867 P.2d 128, 133 (Colo. App. 1993), disapproved of on other grounds by *Resol. Tr. Corp. v. Heiserman*, 898 P.2d 1049 (Colo. 1995). *Accord Haynes Mech. Sys., Inc. v. Bluon Energy, LLC*, No. 18-cv-03004, 2021 WL 3128652, at \*11 (D.Colo. July 23, 2021) ("finding Colo. Rev. Stat. § 13-21-116 to be inapplicable, in part 'because defendant's actions did not pertain to 'public safety'" in action against refrigerant manufacturer) (quoting *Messler*, 867 P.2d at 133); *Stroh v. United States*, No. 11-cv-00344, 2012 WL 4069354, at \*7 (D.Colo. Sept. 17, 2012) (holding "that a Good Samaritan analogy could not support jurisdiction [under the Federal Tort Claims Act, 28 U.S.C. §§ 1346, 2671-2680] because a private person would not be liable under Colorado law for negligence").
40. *Agile Safety Variable Fund, L.P. v. RBS Citizens, N.A.*, 793 F. Supp. 2d 1248, 1258 (D.Colo. 2011) ("[T]here is some evidence that Defendants' statements induced Plaintiffs to continue investments and begin new investments in [defendant company], thus adding to [defendant company]'s assets. As a result, the Court finds that there is evidence that [defendants] were indirectly compensated for their communications.") (citations omitted).
41. *Reality Tech., Inc. v. United States*, No. 13-cv-02805, 2015 WL 4594145, at \*8 (D.Colo. May 29, 2015), report and recommendation adopted sub nom. *Reality Tech., Inc. v. United States of Am.*, 116 F. Supp. 3d 1240 (D.Colo. 2015), judgment entered sub nom. *Reality Tech., Inc. v. United States*, No. 13-cv-02805, 2015 WL 4575012 (D.Colo. July 30, 2015).
42. *Valor Sec. Servs., Inc. v. Hunter*, No. 04SC636, 2004 WL 2926017, at \*1 (Colo. Dec. 20, 2004).
43. *Combined Commc'ns Corp. v. Pub. Serv. Co. of Colo.*, 865 P.2d at 897.
44. *Hancey v. United States*, 967 F. Supp. 443, 444 n. 1 (D.Colo. 1997).
45. CRS §§ 13-21-108(1), -108.1, and -108.2. Nevertheless, the medical assistance at competitive sports statute states that it "is to clarify and not to expand or limit" the scope of the medical assistance statute.
46. CRS § 13-21-108.1(4)(a).
47. *Id.*
48. CRS § 13-21-108.1.
49. CRS § 13-21-108.1(2)-(3).
50. CRS § 13-21-108.1(4)(a).
51. CRS § 13-21-108.2(1)(a).
52. CRS § 13-21-108.2(3).
53. CRS § 13-21-108.2(1)(a).
54. CRS § 13-21-108.2(1)(b).
55. CRS § 13-21-108.2(2)(b).
56. CRS § 13-21-108.7(2)(d).
57. CRS § 13-21-108.7(3).
58. *Id.*
59. CRS § 13-21-108.7(4).
60. CRS § 13-21-108.7(3).
61. CRS § 13-21-108.7.
62. See parenthetical at note 40, *supra*.
63. CRS § 13-21-108.8(1).
64. CRS § 13-21-108.8(3).
65. CRS § 13-21-108.8(1).
66. *Id.*
67. CRS § 13-21-108.8(2).
68. CRS § 25-47-107(1)(a)-(g).
69. CRS § 25-47-107(1).
70. CRS § 25-47-107(2).
71. CRS § 13-21-113.7(1).
72. CRS §§ 13-21-113.7(2)(c.5), (d); 13-21-115.5(c)(1); and 31-30-1102(9).
73. CRS § 13-21-113.7(2).
74. CRS § 13-21-113.7(1).
75. CRS § 13-21-113.7(2)(c).
76. CRS § 13-21-113.7(1).
77. *Id.*
78. CRS § 13-21-113.7(3).
79. CRS § 13-21-113.7(4).
80. CRS § 13-21-114.
81. CRS § 13-21-108.3(1), (4).
82. CRS § 13-21-108.3(1).
83. CRS § 13-21-108.3(1), (4).
84. CRS § 12-315-117.
85. *Id.*
86. *Id.*
87. *Id.*
88. CRS § 24-33.5-1505(1).
89. *Id.*
90. *Id.*
91. *Id.*
92. CRS § 24-33.5-1505(1.5).
93. CRS § 24-33.5-1505(1.5)(a).
94. CRS § 24-33.5-1505(1.5)(b).
95. CRS § 24-33.5-1505(2)(a).
96. *Id.*
97. CRS § 24-33.5-1505(2)(b).
98. CRS § 24-33.5-1505(3).
99. CRS § 13-21-108.5(3)(a)-(b).
100. CRS § 13-21-108.5(2).
101. CRS § 13-21-108.5(4)(c).
102. CRS § 13-21-108.5(4)(a)-(b).
103. CRS § 13-21-108.4(1)(a)-(2).
104. CRS § 13-21-108.4(2)(a).
105. CRS § 13-21-108.4(2)(b).
106. CRS § 13-21-108.4(1)(c).
107. CRS § 13-21-108.4(1)(d).
108. CRS § 13-21-108.4(1)(e).
109. CRS § 13-21-108.4(1)(f).
110. CRS § 13-21-108.4(g)(I)-(II).
111. CRS § 13-21-115.7(2).
112. CRS § 13-21-115.7(4).
113. CRS § 13-21-115.7(5); *Farina v. City & Cnty. of Denver*, 940 P.2d 1004, 1007 (Colo.App. 1996) (discussing CRS § 13-21-115.7 in passing).
114. CRS § 13-21-116(2)(b)(I).
115. CRS § 13-21-116(2.5)(a). See also *Jones v. Westernaires, Inc.*, 876 P.2d 50 (Colo.App. 1993), overruled by *Concerned Parents of Pueblo, Inc.*, 47 P.3d 311.
116. CRS § 13-21-113(1)(a).
117. *Id.*
118. *Id.*
119. CRS § 13-21-113.3(1).
120. *Id.*
121. *Id.*
122. CRS § 13-21-113.5.
123. *Id.*
124. *Id.*
125. CRS § 13-21-115.5(2)(a).
126. CRS § 13-21-115.5(2)(c).
127. CRS § 13-21-115.5(2)(c), (3)(c)(I); *Gilmore v. Concerned Parents of Pueblo*, 28 P.3d 963, 966 (Colo.App. 2000), *aff'd on other grounds sub nom. Concerned Parents of Pueblo, Inc. v. Gilmore*, 47 P.3d 311, as modified on denial of reh'g (June 10, 2002) (determining that alleged volunteer was compensated thus vitiating volunteer immunity).
128. CRS § 13-21-115.5(2)(c).
129. CRS § 13-21-115.5(4)(a); *Rieger v. Wat Buddhawararam of Denver, Inc.*, 2013 COA 156, ¶ 4 (volunteer as defined by Volunteer Services Act was immune from liability for damages to tree trimmer); *Krystkowiak v. W.O. Brisben Companies, Inc.*, 90 P.3d 859, 863 (Colo. 2004) (defendant claimed immunity in motion to dismiss).
130. CRS § 13-21-115.5(2)(c), (5).
131. CRS § 13-21-116(2.5)(a), (b).
132. CRS § 13-21-116(2.5)(a).
133. *Id.*
134. CRS § 13-21-115.6(1)-(2).
135. CRS § 13-21-115.6(2).
136. CRS § 33-11-113(1)(a)-(2)(c).
137. CRS § 33-11-103(1.6).
138. CRS § 33-11-113(1)(b).
139. CRS § 33-11-113(1)(a)-(2)(c).
140. *Id.*
141. CRS § 33-11-113(5)(a)(I).
142. CRS § 33-11-113(5)(a)(II).