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Good Samaritans

Over the years, medical practitioners have expressed concern about the possibility of being sued as a result of Good Samaritan acts. This is despite the fact that there is no Australian case in which a Good Samaritan has been sued by a person claiming that the actions of the Good Samaritan were negligent.¹ This article discusses the nature of Good Samaritan acts and examines the Good Samaritan legislation that has been enacted in Australia.

Case study

One hour into a 13 hour international flight, a 39 year old passenger developed left sided chest pain.² A call was made by the cabin staff: 'If there is a doctor on board would they please make themselves known to the cabin staff'. An orthopaedic surgeon, Professor Wallace, responded to the call. Examination of the passenger confirmed tenderness of the lower left ribs with a probable fracture. The passenger gave a history of having fallen off a motorcycle on her way to the airport. Further examination revealed that the patient was in respiratory distress with mild tachypnoea. Chest examination could not be carried out effectively because of engine noise but the passenger's trachea was significantly deviated to the right. A diagnosis of a tension pneumothorax was made and an oxygen mask was immediately applied. Professor Wallace went to the flight deck and asked if medical advice could be obtained from the ground. It was not possible to receive immediate advice and Professor Wallace decided to proceed with the insertion of a chest drain.

The aircraft's medical kit contained a scalpel, sharp pointed scissors, and a 14 gauge urinary catheter. There was lignocaine for use as a local anaesthetic. The following equipment was prepared: heated hand towels for sterile drapes, a modified coat hanger as a trocar for the urinary catheter, a bottle of mineral water with two holes created in its cap for use as an underwater seal drain, and a length of oxygen tubing to attach the catheter to the drain. Cellotape was used to anchor the catheter to the oxygen tubing and brandy was used as a disinfectant for the introducer. Professor Wallace advised the passenger that she had a serious condition and an operation was required. He then proceeded to insert the chest drain into the left second intercostal space in

the mid-clavicular line under local anaesthetic. As soon as the drain was connected, air was released from the pleural cavity and within 5 minutes the passenger had almost fully recovered.

On arrival at the airport, the passenger was transferred to hospital. A chest X-ray revealed a 30% residual left sided pneumothorax. A full blood count and arterial blood gases were normal. The patient was given parenteral analgesia, intravenous antibiotics and tetanus prophylaxis. The urinary catheter was removed and a 28 Fr chest drain was placed under local anaesthetic. A repeat chest X-ray showed complete lung expansion, and the passenger's subsequent recovery in hospital was uneventful.

■ **An inflight medical incident will occur in about 1 per 11 000 passengers, but 70% of these incidents are managed by cabin staff without a call for medical assistance.³ If a call for medical assistance is made, the possibility of being sued may be of concern to the medical practitioner in this situation. The legal liability of a medical practitioner who responds to an on board medical emergency is confusing because the law varies from country to country and the determination of the jurisdiction of any action arising out of an inflight emergency is complex. In any event, several major airlines have taken out insurance policies indemnifying doctors who come forward on request to assist in an emergency. The US *Aviation Medical Assistance Act, 1998* also provides protection for airlines and doctors in Good Samaritan situations. Additionally, medical practitioners should check with their medical indemnity insurer, as their insurer may provide worldwide cover for Good Samaritan acts.**

Discussion and risk management strategies

A Good Samaritan is generally defined as a person (including a medical practitioner) who in good faith and without expectation of payment or reward comes to the aid of an injured person, or person at risk of injury, with assistance or advice. There is an ethical and professional obligation on medical practitioners to act as Good

Table 1. Good Samaritan legislation

	Legislation	Protection	Exclusion from protection
ACT	<i>Civil Law (Wrongs) Act, 2002</i>	Honestly and without recklessness	Liability falls within ambit of a scheme of compulsory third party motor vehicle insurance Capacity to exercise appropriate care and skill was significantly impaired by a recreational drug
NSW	<i>Civil Liability Act, 2002</i>	In good faith	If the Good Samaritan's intentional or negligent act or omission caused the injury or risk of injury Ability to exercise reasonable care and skill was significantly impaired by being under the influence of alcohol or a drug voluntarily consumed Failed to exercise reasonable care and skill
NT	<i>Personal Injuries (Liabilities and Damages) Act, 2003</i>	In good faith and without recklessness	Intoxicated while giving the assistance or advice
QLD	<i>Law Reform Act, 1995</i>	In good faith and without gross negligence	
SA	<i>Civil Liability Act, 1936</i>	In good faith and without recklessness	Liability falls within ambit of a scheme of compulsory third party motor vehicle insurance Capacity to exercise due care and skill was significantly impaired by alcohol or another recreational drug
TAS	No legislation	N/A	N/A
VIC	<i>Wrongs Act, 1958</i>	In good faith even if emergency or accident was caused by an act or omission of the Good Samaritan	
WA	<i>Civil Liability Act, 2002</i>	In good faith and without recklessness	Ability to exercise reasonable care and skill was significantly impaired by being intoxicated by alcohol or a drug or other substance and intoxication was self induced

Samaritans. In New South Wales and the Australian Capital Territory there is also a legislative duty on medical practitioners to provide assistance on request. Outside of these locations, there is no legal duty to provide assistance on request, except in the Northern Territory where unique legislation requires any person to provide assistance to another irrespective of their training.⁴

With the exception of Tasmania, legislation exists in all Australian states and territories protecting Good Samaritans from liability (Table 1). The purpose of this legislation is to encourage people, particularly health care professionals, to assist strangers in need without the fear of legal repercussions from an error in treatment.

Conflict of interest: none.

References

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