

AMERICAN ACADEMY OF PEDIATRICS

Committee on Pediatric Emergency Medicine and Committee on Medical Liability

Pediatricians' Liability During Disasters

ABSTRACT. This statement addresses the need for professional liability insurance coverage for pediatricians during disasters and suggests measures to ensure adequate coverage.

ABBREVIATION. EMS, emergency medical services.

Physicians have often volunteered their services during and after disasters. During a disaster, health care providers may be called on to respond to community needs for assistance and to treat victims at the scene, casualty collection points, hospitals (where they may not have privileges), and shelters. These services, whenever possible, should be coordinated through the local disaster plan or emergency medical service (EMS) agencies.¹⁻³ After a disaster, offices or clinics may become sites for emergency care if area hospitals cannot provide adequate services. Local offices may be unusable, and alternate sites for primary care may need to be identified. Recent experiences have demonstrated that health care may be administered in parking lots, malls, and tents. In addition, pediatricians may still need to provide urgent and routine care to their practice-based patients outside of the usual practice location(s).⁴⁻⁷

The recent statement by the American Academy of Pediatrics, "The Pediatrician's Role in Disaster Preparedness," discusses the role of Academy members in disaster planning and care.⁸ In the past many physicians have provided care without affiliation with recognized government or volunteer agencies. It is important that when providing medical service during a disaster providers are part of an organized program or they may be providing service without professional liability insurance coverage. Most malpractice coverage is limited to the provider's usual scope of practice and practice setting. Good Samaritan statutes provide some liability protection when rendering medical care at the scene of an emergency to one who would not otherwise receive it. Good Samaritan statutes cover physicians at the scene of acute incidents but vary among states and may not provide liability protection during or after disasters.⁹ In many states, for health care providers to be covered for liability in a disaster, they must practice under the umbrella of an official disaster agency, such as the Federal Emergency Management Agency, the Department of Health Services, the local

EMS authority, or other recognized government or volunteer agency.¹⁰ In some states, individual malpractice insurance policies cover neither out-of-office care nor the expanded scope of practice that may be required during a disaster.¹¹ Good Samaritan laws do not cover a physician if there is any payment for services or if there is an accusation of gross negligence.

The Committee on Pediatric Emergency Medicine and the Committee on Medical Liability recommend that pediatricians be prepared to give care during disasters. In addition, they should:

1. Be familiar with their state's Good Samaritan statutes and protections afforded while providing emergency care during a disaster.
2. Work with state legislatures to develop statutes to ensure appropriate liability coverage during the acute and recovery phases of a disaster.
3. Be familiar with their individual liability insurance coverage outside of the usual practice settings when providing urgent and routine care.
4. Become involved in local disaster planning activities and work with response agencies before an event occurs.
5. When volunteering to assist during or after a disaster, make every effort to work in concert with the lead organization coordinating disaster relief.

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The recommendations in this statement do not indicate an exclusive course of treatment or serve as a standard of medical care. Variations, taking into account individual circumstances, may be appropriate.

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