

## Liability: Nonconsensual Surgery

### 76 Okl. St. 5(a)(3)

A health care provider licensed to perform surgery, who, in good faith, voluntarily, and without compensation, provides surgical care to the victim of an accident, will not be held legally responsible for failing to obtain consent prior to the surgical act. They can be held legally responsible if acting with extreme carelessness or intent to cause harm, or if the victim is a conscious adult capable of consenting or refusing consent, or, if the victim is a child, the parents or guardians could be reached in a reasonable time and are not contacted prior providing surgical care.

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## Responsibility for?Negligence?Good Samaritan Act

(a) Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself, and except as hereinafter provided.

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(3) Where no prior contractual relationship exists, any person licensed to perform surgery or dentistry in this state who in good faith renders emergency care requiring the performance of an operation or other form of surgery upon any individual who was the victim of an accidental act shall not be liable for any civil damages or subject to criminal prosecution as the result of nonconsent whereby such person renders or attempts to render the emergency surgery or operation voluntarily and without compensation, wherever required, except for gross negligence or willful or wanton wrongs committed in rendering the care; provided, however, that the exemption granted by this subsection shall not attach if the victim is an adult who is conscious and capable of giving or refusing his consent; or if the

victim's spouse, or parent, or guardian in the case of a minor or incompetent person, can be reached in a reasonable time considering the condition of the victim and consistent with good medical practice, and unless concurrence is obtained for such emergency surgery or operation from one other person licensed to perform surgery in this state.