



The Karnataka Good Samaritan And Medical Professional (Protection And Regulation During Emergency Situations) Act, 2016

Act 26 of 2018

Keyword(s):

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KARNATAKA ACT NO. 26 OF 2018

(First Published in the Karnataka Gazette Extra-ordinary on the twenty fourth day of August, 2018)

THE KARNATAKA GOOD SAMARITAN AND MEDICAL PROFESSIONAL (PROTECTION AND REGULATION DURING EMERGENCY SITUATIONS) ACT, 2016

(Received the assent of President on the thirteenth day of August, 2018)

An Act to provide for protection to Good Samaritans and Medical Professionals from civil and criminal liabilities, by establishing supportive legal environment, obligations of hospitals and clinics and for matters connected therewith or incidental thereto;

Whereas it is expedient to provide for protection to Good Samaritans and Medical Professionals from civil and criminal liabilities, by establishing supportive legal environment, obligations of hospitals and clinics and for matters connected therewith or incidental thereto;

Be it enacted by the Karnataka State Legislature in the Sixty seventh Year of the Republic of India as follows;-

CHAPTER I**PRELIMINARY**

1. Short title and commencement.- (1) This Act may be called the Karnataka Good Samaritan and Medical Professional (Protection and Regulation During Emergency Situations) Act, 2016.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.- In this Act, unless the context otherwise requires,-

- (a) 'Accident' means the unforeseen, unexpected or unintentional occurrence of an event which results in the risk of death or injury to any person and includes road, rail, water or air accident;

- (b) 'Appropriate authority' means an authority appointed by the Government;
- (c) 'Bystander' means any person including a passerby who is an eye witness to an accident or incident of crime or any other emergency situation;
- (d) 'Code' means the Code of Criminal Procedure, 1973 (central Act 2 of 1974);
- (e) 'Emergency care' means any reasonable measure to render first-aid, advise or assistance to an injured person of an accident or incident of crime or any other emergency situation at the scene of an accident or during transit to a place where actual medical treatment may be administered or inside a hospital;
- (f) 'Emergency situations' means a medical condition manifesting itself by symptoms of sufficient severity of such a nature that the absence of immediate medical attention could reasonably place the health and life of the person affected to risk or serious impairment to bodily functions or serious dis-function of any organ or part of the body;
- (g) 'First -aid' means the immediate basic care given to an injured person of an accident or crash or incident of crime or any other emergency situation so as to stabilise his condition by any person including a medical professional before any decisive treatment;
- (h) 'Government' means the Government of Karnataka;
- (i) 'Good Samaritan' means a person who, in good faith, without expectation of reward and without any duty of care or special relationship, voluntarily comes forward to administer emergency care to an injured person;
- (j) 'Hospital' means any institution by whatever name called that renders medical, surgical, therapeutic, diagnostic treatments, Medical care, facilities or services and includes a teaching hospital and all such similar institution;

- (k) 'Incident of crime' includes any offence under the Indian Penal Code, 1860 (Central Act 45 of 1860) that causes physical or bodily harm to person;
- (l) 'Injured person' shall include a person at risk of injury or a person in need of emergency care or treatment due to an accident or incident of crime or any other emergency situation;
- (m) 'Medical professional' means a doctor, surgeon, physician, nurse, hospital attendant, paramedical staff or any other person licensed or certified, responding to a medical emergency as part of their professional or statutory duty or part of employment, with the rendering of actual medical treatment;
- (n) 'Medico-legal form' means any document which hospital is required to prepare in relation to any proceedings conducted in a hospital having legal implications;
- (o) 'Medical Procedure' means the initial examination, diagnosis or check-up conducted by a hospital or medical professional on any injured person, so as to determine the type of treatment that is necessary if any, to stabilize the condition of such injured person;
- (p) 'Special relationship' means any of the following relationships, namely:-
- (i) Doctor and patient;
 - (ii) Employer and employee;
 - (iii) Immediate family, including husband, wife, children and parents; and
 - (iv) Guardian or any other person in lawful charge under any law in force at the time;
- (q) 'Stabilize' means the rendering of any immediate emergency care of the injured person as may be necessary to assure within reasonable medical probability, that no material deterioration of the condition of such injured person is likely to result from or occur during the transfer of such injured person from one

hospital to another, where such appropriate facilities are available to render the requisite treatment;

- (r) 'Transfer' means the movement including discharge of an injured person outside a hospital at the direction and assistance of any person employed by, or associated, directly or indirectly, with the hospital, but does not include such a movement of an individual who,-
- (i) has been declared dead; or
 - (ii) leaves the hospital without the permission of any such person.
- (s) 'treatment' means the rendering of appropriate medical care, facilities or services by a medical professional to an injured person, which includes first aid, emergency care and medical surgical, therapeutic and diagnostic treatment.

CHAPTER II

PROTECTION FOR GOOD SAMARITANS

3. Protection for Good Samaritan from Civil or Criminal Liability.-

(1) A Good Samaritan shall not incur any civil or criminal liability for an act done or omission made while providing emergency care to an injured person, when such an act or omission is made in good faith;-

- (i) with the consent of the injured person, whether express or implied; or
- (ii) if the circumstances are such that it is impossible for such person to signify consent, then without the consent of the injured person; or
- (iii) if the injured person is incapable of giving consent, with the consent of his guardian or other person in lawful charge of him, or if he has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time to provide emergency care, then without such consent:

Provided that the protection from civil liability shall not apply if the good Samaritan is grossly negligent or reckless in connection with the act done or omission made while providing emergency care.

Provided further that the protection from criminal liability shall not extend to,-

- (a) the intentional causing of death, or the attempting to cause death;
- (b) the doing of anything which the person doing it knows to be likely to cause death; for any purpose other than the preventing of death or grievous injury;
- (c) the voluntary causing of hurt, or the attempting to cause hurt, for any purpose other than the preventing of death or hurt; and
- (d) the abetment of any offence, to the committing of which offence it would not extend.

(2) Where, a person, or a group of persons, brings an injured person to a hospital and an acknowledgement under sub section (3) of section 4 is issued to each of them by the said hospital, the Court shall presume all such persons to be Good Samaritans.

4. Rights of Good Samaritan.- (1) A Good Samaritan shall not be required to,-

- (a) furnish any of his own personal information such as his name, telephone number and address at the hospital including for the preparation of a medico-legal form; or
- (b) fulfil any procedure related to the admission of an injured person at a hospital; or
- (c) bear any medical expenses towards the treatment of an injured person at a hospital.

(2) A Good Samaritan shall not be required for examination by the police, in accordance with section 9 and 10 of this Act, unless such Good

Samaritan is proven to be an eye-witness to the accident or incident of crime or any other emergency situation:

Provided that a Good Samaritan may lodge a complaint with the appropriate authority as may be specified by the Government by notification, for any grievance against a police officer on the grounds of harassment or intimidation, and such authority shall ensure that a departmental inquiry is initiated on the basis of the complaint;

(3) (a) A Good Samaritan may voluntarily provide to the hospital his own name and address, the name of the injured person, if known, and shall be required to provide the time and place from where he has rescued such an injured person;

(b) if the information in clause (a) is provided by the Good Samaritan, a copy thereof, along with an acknowledgment of his services shall be provided to him immediately for his records.

CHAPTER III

PROTECTION FOR MEDICAL PROFESSIONALS

5. Protection for Medical Professionals.- (1) Notwithstanding anything to the contrary contained in Chapters XXIII and XXIV of the Code, the evidence of any medical professional may be given by affidavit, if the Court thinks fit, and may, subjected to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under the Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, examine any such medical professional as to the facts contained in the affidavit.

(3) The examination of such medical professional shall, as far as possible, be conducted through video conferencing or any other appropriate means of audio-visual telecommunication.

(4) The Court may, if it thinks fit, summon the medical professional to be examined in person, if the examination under sub-section (3) is not possible due to other special reasons the same be recorded in writing.

CHAPTER IV

DUTY OF HOSPITALS AND PROCEDURAL REQUIREMENTS

6. Hospitals' affirmative duty to Assist.- (1) Every hospital shall be required to provide immediate medical screening services and first-aid at free of cost and the appropriate treatment as it considers necessary, in order to improve the health conditions and recovery of any such injured person:

Provided that a hospital without the requisite facilities or qualified personnel, that is unable to render such appropriate treatment, shall provide such treatment or measure within its capacity which minimizes the risks to the injured person's health, in order to stabilize him, before any transfer is issued by such hospital, along with all medical records, or copies thereof, related to the medical conditions of the injured person, available at the time of transfer, including records related to the injured person's conditions, observations of signs or symptoms, preliminary diagnosis, treatment provided and the results of any tests conducted, to the nearest hospital where such appropriate facilities or personnel and space are available.

(2) Without prejudice to sub-section (1), no hospital shall deny or delay in first-aid or treatment to an injured person for any delay in furnishing medical costs or expenses.

7. Detaining a Good Samaritan in a Hospital.-No person shall detain a Good Samaritan for any purpose in a hospital where such Good Samaritan has brought the injured person, in accordance with the rights granted under sub-section (1) of section 4 of this Act.

8. Duties of a Hospital.- (1) All hospitals shall be required to display the rights of a Good Samaritan in accordance with section 4 of this Act, in a prominent place and in Kannada, Hindi and English languages.

(2) Every hospital shall be required to inform the police as soon as an injured person is brought to such hospital by a Good Samaritan:

Provided that the details of the Good Samaritan may be given to the police only in accordance with section 4 of this Act.

CHAPTER V

POLICE INVESTIGATION OF GOOD SAMARITANS

9. Requirement of attendance and examination by the Police.- In addition to and notwithstanding anything to the contrary contained in section 160 and 161 of the Indian Penal Code, 1860,-

- (i) the examination of a Good Samaritan who is an eye-witness, by a police officer conducting an investigation under Chapter XII of the Code, shall as far as possible be conducted at a time and place of his convenience such as, his place of residence or business, and such police officer conducting the examination shall be dressed in plain clothes, unless the Good Samaritan Chooses to visit the police station;
- (ii) Where such Good Samaritan is required by the officer conducting the investigation to visit the police station, the reasons for the same shall be recorded by such officer in writing, and any contravention of this sub-section by such officer shall invite the grievance redressal process as prescribed in accordance with the proviso to sub-section (2) of section 4 of this Act; and
- (iii) The complete statement or affidavit of such Good Samaritan shall as far as possible, be recorded by the police officer conducting the investigation in a single examination.

10. Non-compliance.- Any police officer that violates the provisions of this Act is guilty of an offence and shall be subjected to penalties in accordance with such discipline rules as may be prescribed.

CHAPTER VI

ESTABLISHMENT OF GOOD SAMARITAN FUND

11. Constitution of good samaritan fund.- (1) The Government may after due appropriation made by the State Legislature in this behalf, make to the appropriate authority, grants and loans of such sums of money to the appropriate authority as the Government considers necessary.

(2) There shall be constituted a Fund to be called as the Good Samaritan Fund to which the following shall be credited, namely:-

- (a) any grant or loans made to the appropriate authority by the Government.;
- (b) all sums received by the appropriate authority from such other sources, as may be prescribed by the Government.

(3) Such Fund shall be applied for carrying out the purposes of this Act, in accordance with such rules as may be prescribed by the Government in this regard:

Provided that the Government may apportion such monies from the Fund to support the reasonable expenses of a Good Samaritan in accordance with section 14 of this Act;

(4) Notwithstanding anything contained in section 6 of this Act, the Government may by notification, after due appropriation made by the State Legislature in this behalf, make additional rules under this Act for the reimbursement of charges or expenses incurred by the hospital towards the treatment provided, if such hospital was unable to recover a reasonable minimum proportion of costs or expenses incurred for such appropriate treatment rendered, then that hospital may apply to an appropriate

authority within such period and in such form and manner, as may be prescribed, by the Government in this regard, after the date of commencement of such rules.

12. Responsibility for implementation and administration of fund.- The Government shall prescribe an appropriate authority by a notification, at the district level which shall be responsible for the implementation and administration of this Fund and shall act as the nodal authority for grievance redressal under this Act.

CHAPTER VII

FACILITATION OF LEGAL PROCEEDINGS

13. Restriction on postponement or adjournment of court proceedings.- (1) Where a Good Samaritan and Medical Professional is in attendance in Court as a witness, the examination-in-chief and cross-examination, to the extent possible, shall be conducted on the same day.

(2) The examination-in-chief and cross-examination of the Good Samaritan shall be completed in not more than three hearings, except for special reasons recorded in writing by the court.

(3) Where a Good Samaritan or Medical Professional, as the case may be attends the Court as a witness, no adjournment or postponement shall be granted, except for special reasons to be recorded in writing.

(4) The terms on which such an adjournment or postponement is granted may also include, in appropriate cases, the payment of exemplary costs by the prosecution or the accused, as the case may be:

Provided that in no circumstance more than one adjournment shall be granted when the Good Samaritan is in attendance.

14. Remuneration of reasonable expenses to Good Samaritan.- Not withstanding anything to the contrary contained in any law for the time being in force or any agreement, award, judgment, decree, rule, regulation or other instrument for the time being in force,-

- (i) the Court shall order for payment of remuneration, on the part of the Government, of the reasonable expenses incurred by a Good Samaritan who is a witness attending Court for the purposes of any inquiry, trial or other proceeding before the Court;
- (ii) such reasonable expenses shall take into consideration the actual cost of transportation and the loss of daily wage of the Good Samaritan, subject to a minimum of rupees one hundred per day or such higher amount, as may be prescribed by the Government from time to time;
- (iii) the order of remuneration of reasonable expenses shall be passed by the Court on the day the Good Samaritan attends the Court and be paid to him on the same day:

Provided that such order of payment of reasonable expenses shall be made for every day that the Good Samaritan in attendance, including when an adjournment or postponement is granted.

CHAPTER VIII

OFFENCES AND PENALTIES

15. Considerations while imposing penalty.- Where it is established in the prosecution of an offence that the accused acted as a Good Samaritan and provided emergency care to another person who is experiencing an injury after the commission of such offence, the Court shall, while determining the penalty to be imposed on the accused, if any, taken into account of such assistance rendered by the accused.

16. Non-compliance by Police officer.- Any police officer, who violates the provisions of this Act, is guilty of an offence and in case of non-compliance or violation of any of the provisions of this Act, a complaint shall be filed with the concerned Deputy Commissioner of Police or an equivalent officer and shall be subject to disciplinary action as per the appropriate rules with appropriate arrangements made to receive and dispose of such complaints in a timely manner.

17. Offences by Companies.- (1) Where an offence under Chapter IV of this Act has been committed by a company, every person who, at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if the said person proves that the offence took place without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under Chapter IV of this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purposes of this section,-

- (a) "Company" means a company incorporated under the Companies Act, 2013 (Central Act 18 of 2013), or any previous company law; and
- (b) "director" means a director appointed to the board of a company as defined by the Companies Act, 2013 (Central Act 18 of 2013).

18. Offences by Societies or Trusts.- (1) Where an offence under Chapter IV of this Act has been committed by a society or a trust, every person who, at the time the offence was committed, was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under Chapter IV of this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, trustee or other officer of the society or trust, such director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section:-

- (a) "Society" means anybody corporate registered under the Societies Registration Act, 1860(Central Act 21 of 1860) and "trust" means anybody registered under the Indian Trust Act, 1882(Central Act 02 of 1882) or any other law for the time being in force; and
- (b) "director" in relation to society or trust, means a member of its governing board other than an ex-officio member representing the interests of the Central Government or State Government.

19. Offences by Hospital:- (1) Contravention of any of the provisions of Chapter IV of this Act shall be an offence punishable under this Act.

(2) If an offence under Chapter IV of this Act leads to the death of an injured victim, it shall be considered to be a case of medical negligence and criminal proceedings may be initiated against the hospital.

(3) The Hospital shall be liable to pay a fine which may extend to ten thousand rupees for the first offence, a fine which may extend to fifty thousand rupees for any second offence and a fine which may extend to five lakh rupees for any subsequent offence:

Provided that nothing in this section shall prevent the authority concerned from revoking the license of a hospital if it deems this to be necessary in the case of serious or repeated negligence of offence.

20. Offences by Medical Professionals.- Lack of response by a medical professional in an emergency situation, where he is expected to provide care under Chapter IV of this Act, shall constitute "Professional Misconduct", under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and disciplinary action shall be taken against such medical professional under Chapter 8 of the said Regulations.

21. Cognizance of Offence.- (1) Offences under this Act, shall be non-cognizable and bailable.

(2) No court shall take cognizance of offence under this Act, unless a complaint is lodged or made by the prescribed Authority.

22. Appeal.- any person aggrieved by the order of appropriate authority or the prescribed authority may appeal to such Appellate Authority as may be prescribed within thirty days from the date of such orders.

CHAPTER IX

MISCELLANEOUS

23. Power to make rules.- (1) The Government may, by notification and after previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for.-

- (a) the rights of Good Samaritans in hospitals;
- (b) the treatment of Good Samaritans as witnesses by the police:

Provided that any such rule issued by the Government shall be considered as invalid if inconsistent with the existing rights of a Good Samaritan granted under the provisions of this Act;

- (c) simplified court proceedings;
- (d) protection and treatment of medical professionals as witnesses; and
- (e) any other matter for which there is no provision in this Act (including prescribing Appellate Authorities, periods within which appeals or revision petitions have to be filled), and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (4). Every rule made under this Act shall have effect as if enacted in this Act.

(4) Every rule made under this Act shall be laid down as soon as may be before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session, in which it is so laid or the sessions immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule shall not be made, the rule shall thereafter have effect in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. Power to make schemes.- The Government may by notification make schemes for the additional assistance of Good Samaritans to provide for remuneration of the reasonable expenses of Good Samaritans who appear as witnesses:-

- (a) free legal aid to Good Samaritans who face civil or criminal proceedings;
- (b) examination of Good Samaritans via video conferencing in courts;
- (c) promoting awareness of the rights of Good Samaritans;
- (d) training in first aid and cardiopulmonary resuscitation for persons employed to respond to emergencies, including the police; and
- (e) any other scheme that is deemed appropriate by the Government from time to time.

25. Annual Report.- (1) The Appropriate authority shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report on the implementation of the provisions of this Act with the Health and Family Welfare Department of the Government which shall be the nodal agency for all purposes of this Act.

(2) The annual reports shall be laid, before both houses of the State Legislature.

26. Accounts and audit.- (1) The appropriate authority shall cause to be maintained such books of accounts and other registers as may be prescribed and shall prepare in the prescribed manner an annual statement of accounts.

(2) The financial year of the fund shall commence on 1st day of April of each calendar year and shall end on 31st March of the succeeding calendar year.

(3) The accounts of the fund shall be audited annually by the Principal Director and Controller, State Audit and Accounts Department. The appropriate authority or the Government may order concurrent and special audits also.

(4) The auditor shall, for the purposes of the audit, have access to all the accounts and other records of the Authority.

(5) As soon as may be after the receipt of the annual statement of accounts and the report of the auditor, the appropriate authority shall consider it in its meeting and send a copy of the annual statement of accounts together with a copy of the report of the auditor to the Government, along with its explanation on the comments made by the auditor, if any, and a statement of action taken by the appropriate authority to remedy the irregularities or loopholes, if any, pointed out by the auditor.

(6) The Government may after perusal of the report of the auditor, and other documents submitted to it, as in sub-section (5), give such directions as it thinks fit to the appropriate authority and the appropriate authority shall comply with such directions.

27. Educational institutions to impart training in first-aid and emergency care to students.- (1) It shall be the duty of every educational institution to impart training in first-aid and emergency care to every student above the age of twelve years for such duration, as may be prescribed.

(2) The training under sub-section (1) shall be imparted once in every academic year.

(3) For the purpose of imparting training under sub-section (1), the educational institutions shall take the assistance of such professional or institutions, as the Government may, by notification, specify.

28. Organization of awareness programmes and workshops.- The Government, shall, from time to time, organize and conduct the awareness programmes, workshops and seminars to,-

- (a) sensitize the citizens in becoming Good Samaritans;
- (b) make the citizens aware of emergency care numbers of ambulance services and police assistance; and
- (c) train the citizens in first-aid and emergency care skill.

29. Power to remove difficulties.- (1) If any difficulty arises, in giving effect to the provisions of this Act, the Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

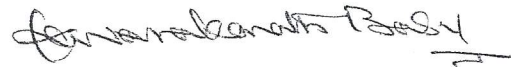
(2) Every order made under this section shall, as soon as may be after it is made, be laid before both houses of the State Legislature.

30. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

The above translation of ಕರ್ನಾಟಕ ಜೀವರಕ್ಷಕ ಮತ್ತು ವೈದ್ಯಕೀಯ ವೃತ್ತಿನಿರತರ (ತುರ್ತು ಸನ್ನಿವೇಶಗಳಲ್ಲಿ ರಕ್ಷಣೆ ಮತ್ತು ನಿಯಂತ್ರಣ) ಅಧಿನಿಯಮ, 2016 (2018ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ:26) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA

By Order and in the name of
the Governor of Karnataka,



(K.DWARAKANATH BABU)

Secretary to Government
Department of Parliamentary Affairs