On December 6, 2014, a 13-year-old Illinois boy collapsed while playing in a local basketball tournament. Multiple people responded, including a former EMT and his wife, a nurse. CPR was initiated...

In early January 2015, a 59 year-old woman became unresponsive on a flight home to Chicago. Another passenger, a doctor, responded and started CPR...

One of our recent alerts discussed the Illinois Supreme Court case Home Star Bank v. Emergency Care which held that a physician cannot avoid liability under the Illinois Good Samaritan Act for the provision of emergency care, simply by not billing for his or her services. That case centered on actions taken by a licensed healthcare provider in a hospital. But recent news stories, like those listed above, implicate some additional questions: What about assistance given in other settings? What about assistance provided by non-licensed individuals?

All 50 states have some type of Good Samaritan statute. Some protect only licensed health care providers (e.g. doctors, nurses, physical therapists), while other states protect anyone, licensed or not, who tries to help in an emergency. Still others, albeit it few, create an obligation for ordinary citizens to assist proactively under certain circumstances.

The Illinois Good Samaritan Act (act) is somewhat scattered in both approach and application. So long as an individual's actions are not willfully or wantonly negligent, certain licensed Illinois professionals are provided immunity under the act, but only in specific circumstances. These circumstances are that the identified need must be for “emergency care,” completed in good faith, and provided without compensation. There are, however, some rather unusual qualifiers in the act as well. For example, an optometrist may be
protected, but only if responding at the scene of an accident; a podiatrist may only claim immunity at the scene of an accident or in the case of nuclear attack; and a respiratory therapist is covered only if care is provided at an accident, a natural disaster like a hurricane, tornado, nuclear attack, or other “similar emergency.”

Unlicensed people can be protected by the act depending on what action they are performing. A person who provides aid to a choking victim, utilizes an AED, or provides instruction to others via phone may have immunity. Any person, licensed or not, who is certified in “first-aid” and renders care outside the hospital setting may also claim immunity. Illinois courts have analyzed the immunity of the unlicensed Good Samaritan, finding them immune if the care was not provided as part of “a comprehensive plan and not in connection with commercial venture,” but rather provided purely as a Good Samaritan. Redmon v. Stone, 281 Ill.App.3d 517, (4th Dist. 1996).

One location where a licensed provider is quite likely immune from civil liability is on an airplane in-flight. The federal government, in recognition of the large number of in-flight medical emergencies, enacted the Aviation Medical Assistance Act of 1998 (AMAA). Under the AMAA, medically qualified individuals responding to an emergency cannot be held liable for acts or omissions made while providing care during an in-flight emergency, absent gross negligence or willful misconduct. While there are some caveats and some provisions for the continued liability of the air carrier, the AMAA is an attempt to encourage health care professionals to assist, without fear of being sued down the road.

Given the rather piecemeal approach to Good Samaritan laws, both in Illinois and nationally, health professionals would be wise to review their insurance coverage, as employers may not cover Good Samaritan services. The Illinois Good Samaritan Act should also be reviewed to check for language regarding your specific profession.