



# Lifeguarding Legal Principles

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## Duty to act

Lifeguards have a duty to act to provide emergency medical care, including CPR, while they are on duty.

Emergency care that performed voluntarily on a stranger in need while off duty is generally considered a Good Samaritan act.

Duty to act is a requirement to act toward others and the public with the watchfulness, attention, caution, and prudence that a reasonable person in the same circumstances would use.

## Good Samaritan principle

Because governments encourage people to help others, they pass Good Samaritan laws (or apply the principle to common laws). These laws prevent a rescuer who has voluntarily helped a stranger in need from being sued for wrongdoing. Lifeguards are generally protected from liability as long as they are reasonably careful, act in good faith (not for reward), and do not provide care beyond their skill level.

## Consent

A responsive adult must agree to receive care. Lifeguards should identify themselves and ask whether it's OK to help. People over the age of 18 may give oral or written consent or give consent by gesturing.

**Implied consent** means that permission to perform care on an unresponsive victim is assumed.

This principle is based on the idea that a reasonable person would give permission to receive lifesaving first aid if he or she were able. **When caring for children**, Lifeguards should gain consent from a parent or legal guardian. But when a life-threatening situation exists and a parent or legal guardian is not available, give first aid care based on implied consent.

When caring for older adults, Lifeguards must keep in mind that if they are suffering from a disturbance in normal mental functioning, such as Alzheimer's disease, they may not understand the request for consent. Consent must then be gained from a family member or legal guardian. Again, when a life-threatening situation exists and a family member or legal guardian is not available for consent, give first aid care based on implied consent.

## Confidentiality

A person has the right for her or his name and medical history to remain confidential among care providers. Care providers may share only information pertinent to medical care. The

regulation in the United States that governs confidentiality is the Health Insurance Portability and Accountability Act, commonly referred to as the HIPAA law.

### **Standard of care**

This is the level of emergency care that expected to provide, based on the level of training and with a response that a reasonable person in the same circumstances would use. If a person's actions do not meet this standard, then the acts may be considered negligent, and any damages resulting may be claimed in a lawsuit for negligence.

### **Negligence**

This occurs when an injured or ill person incurs proven damage from a trained person who has a duty to act and the person does not uphold the standard of care.

### **Refusal of care**

A person older than 18 can refuse treatment and care if he or she is alert and oriented to the surroundings.

### **Abandonment**

If a Lifeguard decides to help an ill or injured person outside of their job, they must not leave that person until someone with equal or more emergency training takes over (unless it becomes dangerous to stay). Lifeguards may have legal responsibility if they abandon a person who requires ongoing care.

### **Advance directives, living wills, and do not resuscitate (DNR) orders**

These documents are authorized by law and are usually witnessed or notarized. The documents allow a person to appoint someone as her or his representative to make decisions on resuscitation and continued life support if the person has lost decision-making capacity (e.g., if the person is in a coma).

Advance directives are statements about what victims want done or not done if they can't speak for themselves. The DNR is a type of advance directive. This document is a specific request not to have CPR performed. In the United States, a doctor's order is required to withhold CPR. Therefore, unless the victim has a DNR order, emergency care providers should attempt resuscitation. Victims who are not likely to benefit from CPR and may have a DNR order include those with terminal conditions from which they are unlikely to recover. Outside the hospital, rescuers should begin CPR if reasonable doubt exists about the validity of a DNR order or advance directive, the victim has changed his or her mind, or the victim's best interests are in question.

### **Documentation**

Emergency care provided should be recorded in writing. If it was not written, it was not done.