

Written Testimony of  
Serena Vinter, MHS  
Senior Research Associate  
Trust for America's Health

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Chairman Vallario, Vice Chair Rosenberg, and members of the Committee, thank you for the opportunity to testify today regarding House Bill 514 -- "Good Samaritan -- State of Emergency -- Liability Protection." I am Serena Vinter, Senior Research Associate at Trust for America's Health (TFAH). TFAH is a non-profit, non-partisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention and preparedness a national priority. We applaud the Committee for considering House Bill 514, which would extend liability protection to corporate entities providing disaster-relief services during a public health emergency in the State of Maryland.

Late last year, TFAH released a report entitled *Ready or Not? Protecting the Public's Health from Diseases, Disasters, and Bioterrorism*. This report, released annually, grades public health emergency preparedness across all 50 states and the District of Columbia based on 10 key indicators developed in consultation with federal, state, and local public health officials and leading public health experts. Our 2009 report included two indicators measuring public health emergency legal preparedness. One of the indicators examined whether or not states had adequate protections for health care volunteers during times of emergency, while the second indicator evaluated whether or not states had statutes in place that extended some level of immunity to groups or organizations providing charitable, emergency, or disaster relief services.

Unfortunately, in both cases, the team of legal experts whom we consulted with at the George Washington University School of Public Health and Health Services found Maryland's laws to be insufficient. While both lapses are troubling, my testimony today will focus on the lack of entity emergency liability protection.

In the event of a catastrophic public health emergency, such as a bioterrorist attack, pandemic influenza, or natural disaster, government officials will depend on private sector and non-profit organizations to provide assistance. A network of community entities may be needed to expedite goods and services to individuals and critical infrastructure sites, to provide shelter and basic necessities, and to help maintain and restore other vital community functions. In fact, many state preparedness plans are quite specific about the role private companies would play in distributing medical countermeasures in the event of a pandemic or bioterrorist attack.

Although Good Samaritan laws at the state level are likely to protect individual volunteers who provide assistance at the scene of the emergency, these laws generally leave significant gaps in liability protection for businesses and non-profit organizations that voluntarily assist during a public emergency. This is disconcerting because businesses may not be able to maintain typical quality control standards in their efforts to meet the demand for resources. So during declared states of emergency, legitimate concerns about liability could thus deter or delay the private sector from participating in relief efforts.

In a large-scale event, sizable numbers of volunteers, facilities, and other private-sector resources are necessary to augment government resources. As we saw in 2005 when Hurricane Katrina

devastated the Gulf Coast region, the magnitude of the disaster created the need for volunteers to 1) support law enforcement, emergency medical and fire response; 2) assist with preserving and repairing infrastructure, including schools; and 3) provide social support services such as counseling and sheltering. Businesses and non-profit organizations not only have the capacity to organize large numbers of people, they also can provide other resources, such as hotels, stadiums, and other facilities that can be vital tools in emergency response.

These concerns extend beyond the corporate world to the non-profit world. In fact, the American Red Cross, the largest volunteer organization in the country, has said that it will not deploy its volunteers in the event of a pandemic influenza outbreak for fears that it could be held liable if Red Cross volunteers contracted influenza while volunteering. The American Red Cross is one of many leading public health and disaster preparedness organizations, including the American College of Emergency Physicians, the American Public Health Association, and TFAH, which support the expansion of Good Samaritan laws to protect a wide range of volunteers and their sponsoring entities during a public health emergency.

The Public/Private Legal Preparedness Initiative, a special undertaking of the North Carolina Institute for Public Health, has developed model language for states wishing to adopt entity emergency liability protection. After consulting with our colleagues at the North Carolina Institute for Public Health and the George Washington University, TFAH believes that House Bill 514 contains two key elements of this model law, including:

- The establishment of a specific coverage trigger (in Maryland's case the declaration of a State of Emergency by the Governor); and
- Retroactive coverage that reaches preplanning and training activities; (Subsection (c)(1) "...in preparation for, anticipation of, or..." can be reasonably interpreted to include pre-event training and preparation as well.)

As such, TFAH believes that this legislation is a bold step towards enhancing public health emergency legal preparedness in the state of Maryland. While enacting House Bill 514 would be a major achievement for emergency preparedness, TFAH encourages Maryland to consider all four core elements of public health legal preparedness: laws and legal authorities; competency in using law; coordination across sectors and jurisdictions in implementing law-based interventions; and legal best practices. If House Bill 514 is signed into law, a significant public outreach campaign must be coordinated to make entities and corporations in Maryland aware of their rights under this law. In addition, the Maryland State Attorney's office should reach out across sectors and jurisdictions to educate and inform state employees about the proper implementation and interpretation of this law.

Finally, TFAH recognizes that legal preparedness is just one aspect of emergency preparedness. Preparedness requires that there are enough qualified laboratory scientists who analyze lab specimens and transmit those results to federal, state and local health officials; epidemiologists and health information specialists who develop and run biosurveillance systems to monitor disease rates and warn of bioterrorist or foodborne disease outbreaks; stockpile managers who receive, store, and dispense medical countermeasures; and public health nurses and doctors who

vaccinate populations against infectious diseases such as pandemic flu. In times of economic crisis and budget cuts, public health is often the first line item to suffer. While these funding declines -- whether at the federal, state, or local level -- may not have an immediate impact of public health preparedness, they do have long term consequences. Funding cuts frequently result in workforce reductions or hiring freezes. Without a trained public health workforce, preparedness suffers.

Thank you for including me in this important discussion. I look forward to your questions.