

## Article Summary

The 2004 Washington State Legislature expanded the “Good Samaritan” Law to provide increased malpractice immunity to physicians who participate in Project Access. Dr. Stephen Albrecht, Medical Director of Thurston County Project Access, helped draft the amendment and testified in support of the legislation. In order to achieve the full liability protection offered under the law, physicians must have a written agreement to participate in Project Access. In the following piece, Mary R. Giannini, partner at the Spokane law firm Witherspoon, Kelley, Davenport, and Toole, P.S., clarifies the impact of the “Good Samaritan” Law on Project Access.

### **The "Good Samaritan" Law Aids Project Access**

Written by

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In 2004, the Washington State legislature expanded the “Good Samaritan Act,” RCW 4.24.300, to include any provider providing charity care to uninsured individuals, as long as the provider participates in a community-based program. This revision in State law increased the malpractice burden of proof in such a situation to that of gross negligence, or willful misconduct.

Project Access was very much on the mind of the drafters of these proposed changes, though Project Access is not specifically referenced in the statute. Dr. Steven Albrecht, President of Thurston County Project Access, helped draft the bill amendment and testified before the State Legislature in support of the legislation.<sup>1</sup> Dr. Albrecht affirmed that the drafters were aware of Spokane County’s own Project Access and that the expansion of the Good Samaritan Act’s coverage was done with the specific intent of increasing the malpractice burden of proof in an effort to encourage more physicians to participate in these community-based programs. Dr. Albrecht received a letter from Physicians Insurance stating that Project Access “did not appear to increase any participating physician’s risk for malpractice claims and might actually help to reduce risk if it succeeds in improving access to care.” Clearly, our partner physicians’ legislative efforts are having the desired effect of increasing access to care to low-income and uninsured patients statewide.

In addition, the Washington Administrative Code section entitled “Volunteer Retired Provider Malpractice Insurance Program” was amended to include programs like Project Access. Because the Department of Health pays the malpractice insurance for these healthcare providers, they are acutely aware of the language used to cover these individuals and clinics. Ms. Diana Ehri of the Washington State Department of Health’s Office of Community and Rural Health helped to write the new section of the Code and said Project Access was at the forefront of their efforts. Ms. Ehri traveled to Spokane and met with local physicians to learn more about Spokane County’s Project Access before drafting the new legislation.

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<sup>1</sup> The authors spoke with the sources mentioned in this article with regard to the Good Samaritan Act and specific changes adopted by the State legislature. All affirmations of Dr. Steven Albrecht and Ms. Diana Ehri were made in a series of telephone conversations between July 19-22, and a fax received by the authors on July 21. Both Dr. Albrecht and Ms. Ehri were aware of the purposes of the conversations and their statements are reproduced here based on contemporaneous notes taken by the authors during these conversations.

The new language to WAC 246-564-010 added a new classification to the definitions of “qualified practice settings,” the locations that are covered by the regulations: “4) For-profit practice settings that participate, through a written agreement, in a community-based program to provide access to health care services for uninsured persons.” Ms. Ehri asserted that the language was carefully tailored to cover Project Access and that the drafters of the Good Samaritan Act copied this sentence nearly verbatim when they wrote for increased malpractice protection for participating physicians and clinics.

Taken together, the revisions to the Good Samaritan Act and the Volunteer Retired Provider Malpractice Insurance Program demonstrate the successful efforts of advocates across this state to increase access to healthcare and essential services for low-income and uninsured patients. Physicians who participate in Project Access and similar programs benefit from increased malpractice protection because of the recent changes to these laws. Project Access and those physicians currently participating in the program wish to acknowledge the dedication of all those health care professionals who are working toward better care for every citizen regardless of their economic status. Furthermore, in recognition of the increased protection afforded under these new laws, Project Access is encouraging greater physician participation in an effort to make top-notch care available to all.

**Editors Note: To achieve the full liability protection offered under the “Good Samaritan Act,” providers must have a written agreement to participate in the Project Access. Please make sure that you have signed agreements with us. Please contact our offices if you need to update your agreement.**