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TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

New York was the pioneer in creating Good Samaritan legislation to protect physicians from suit when the physician acted in good faith in an emergency situation in a location removed from access to medical equipment.

The law was passed in the 1960s and subsequently has been slowly expanded to cover almost the full range of professional caregivers.

Good Samaritan surfaced again during the 2020 Legislative Session in our state and the subject was no doubt spurred by the increase in drug and alcohol abuse. A new expansion has been created so that any person may call 911 without fear of arrest if one is having a drug or alcohol overdose and needs emergency medical care-or-if one is witnessing someone else apparently overdosing.

The stated justification for the law was, quite simply, to save lives by encouraging those close to the event – or perhaps may have caused the event – to act without fear of prosecution.

The person reporting the occurrence is shielded from being prosecuted if they are found to have in their possession not more than eight ounces of a controlled substance. Generally speaking this might be the difference between being a “user” or a true “dealer.” No prosecution will occur despite having any quantity of marijuana or if one possesses drug paraphernalia. If alcohol abuse has occurred there is no prosecution if a party is under the required age. Protection from prosecution cannot be claimed if the reporting is violating probation or parole. Similarly, there is no protection if you had a prior conviction for drug felony sales and it is determined that you were part of a drug sale which triggered the event.

One could argue that if the purpose of the new law is to save lives then the life of the person in distress should not be jeopardized by exposing the purported Samaritan to prosecution despite the fact that the person is an otherwise “bad actor.”

We have written before on the Good Samaritan subject, but a review might be in order and will be the subject of an upcoming report.

Respectfully submitted,

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