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SUDDEN MEDICAL EMERGENCIES WHILE DRIVING IN ALL 50 STATES

Every day in America vehicles leave the roadway, travel across well-manicured lawns, smash through garden sheds, patio furniture, swing sets, and plow through the walls of a home, coming to rest inside of somebody's living room or bedroom. These incidents leave millions of dollars in property damage, injuries, and even death in their wake. One would think that such a crash would be the classic example of negligence, allowing aggrieved parties (including injured persons and subrogating insurance companies) to recover from the at-fault driver. To the chagrin and surprise of those who suddenly find themselves with an automobile where their kitchen table used to be, such is not always the case. Many states provide those who lose control and drive into homes, buildings, and other vehicles with a defense to claims of negligence known as "Act of God" or "sudden medical emergency." As a result, holding such drivers liable for the damage they cause isn't always easy.

Defendant drivers often blame their collisions with stationary homes, buildings, and other objects on medical complications, including heart attacks, diabetic episodes, seizures, strokes, severe sneezing, cramps, reaction to medicines, mental delusions, or an undiagnosed loss of consciousness known as syncope. If it can be established that the driver had experienced previous similar medical episodes or had forewarning of the onset of the condition and drove despite the foreseeable risks, negligence can be established. However, this is easier said than done. It requires obtaining medical releases, obtaining confidential medical records, and/or discussing private medical information with the driver's physician. This usually cannot be accomplished without filing a lawsuit.

Heart attacks and strokes are easy to establish. However, syncope is a short loss of consciousness or fainting characterized by a fast onset, short duration, and spontaneous recovery. It is sometimes caused by a decrease in blood flow to the entire brain, usually from low blood pressure. Its cause often eludes the medical professional despite extensive efforts to make a definitive diagnosis. This makes it unclear to a doctor which patients need a rapid in-patient work-up and which can be safely discharged for out-patient evaluation. Physicians find it difficult to advise patients about returning to driving after they suffer a seizure or syncopal episode due to a lack of statutory or professional guidance on the issue. Epilepsy refers to recurrent seizures which causes altered neurological function. States have varying driving restrictions in terms of seizure-free periods, varying between three and twelve months. The optimal seizure-free period is still unknown, making proof of negligence even more difficult.

An Act of God defense is an inevitable accident which could not have been prevented by human care, caution, or foresight. It usually involves violence of nature, such as severe weather conditions, but can also extend to syncopal episodes while driving a vehicle. A "Sudden Emergency" defense involves an emergency which is not of the defendant's own making, and to which he or she responded as a normally prudent person would have under such

emergency conditions. Such defenses may fail if the defendant driver was medically advised not to drive, had experienced similar episodes before, or was aware that he or she felt ill while driving but continued driving because he or she was late or did not have far to travel. If a severe cramp caused the crash, previous recent episodes of such cramps might negate such defenses. Under such circumstances, the emergency might be considered to be of the defendant driver's own making.

Subrogated insurance carriers must become familiar with both the medical guidelines surrounding driving after suffering syncopal episodes and strokes, as well as the basic law of negligence and available defenses available from state-to-state when a driver claims to have sustained a medical episode resulting in loss of control and collision with a building, or worse. Knowing which defenses are available and who has the burden of proof is imperative in order to make informed subrogation decisions. The following chart is a 50-state summary of the law in this area.

STATE	SUDDEN MEDICAL EMERGENCY DEFENSE	AUTHORITY	COMMENTS
ALABAMA	**Sudden Emergency Doctrine**. Motorist faced with emergency situation by no fault of his own, is held to standard of care of a reasonably prudent person under same or similar circumstances.	*Tillis Trucking Co. v. Moses*, 748 So.2d 874 (Ala. 1999).	Jury charged that a loss of consciousness prior to accident without any warning symptoms or knowledge that such a condition could occur will relieve the driver of liability for negligence. *Walker v. Cardwell,* 348 So.2d 1049 (Ala. 1977).
ALASKA	**Sudden Emergency Defense Not Recognized**. With or without an emergency, the standard of care is still that of a reasonable person given the circumstances.	*Lyons v. Midnight Sun Transp. Servs., Inc.,* 928 P.2d 1202 (Alaska 1996).	The sudden emergency defense has been recognized as a defense to a claim of negligence per se. However, no examples of this exception being applied to sudden illnesses. *Getchell v. Lodge*, 65 P.3d 50, 54 (Alaska 2003).
ARIZONA	**Sudden Incapacitation Defense**. If some unforeseen emergency or Act of God occurs which overpowers the judgment of the driver, *or* renders him incapable of control, so he is not capable of independent action or controlling a motor vehicle and, as a result, injuries are inflicted upon another or his property, then such driver is not negligent.	*Goodrich v. Blair,* 646 P.2d 890 (Ariz. App. 1982); *Garcia v. Saavedra*, 2015 WL 2412106 (Ariz. App. 2015).	Loss of control of vehicle must (1) be caused by a physical incapacitation, and (2) have occurred suddenly and unforeseeably. *Pac. Employers Ins. Co. v. Morris,* 275 P.2d 389 (1954).
ARKANSAS	**Unavoidable Accident Defense**. A collision occurring without negligence on the part of either party. An unavoidable accident might occur because of an Act of God or when a driver with no previous coronary disease loses control of his car during a sudden heart attack.	1 Arkansas Law of Damages § 27:1 (5th Ed.)	No cases using unavoidable accident defense where the driver suffered an Act of God, only cases of slick road conditions. *Lewis v. Crockett*, 420 S.W.2d 89 (Ark. 1967).

STATE	SUDDEN MEDICAL EMERGENCY DEFENSE	AUTHORITY	COMMENTS
CALIFORNIA	**Doctrine of Imminent Peril**. A person confronted with a sudden emergency is held to a lesser standard of care under the circumstances. A driver who is suddenly stricken by an illness, which he could not anticipate, while driving an automobile, which renders it impossible for him to control the car, is not negligent.	*Waters v. Pac. Coast Dairy, Ltd. Mut. Comp. Ins. Co., Intervener*, 131 P.2d 588, 590 (1942); *Hammontree v. Jenner*, 97 Cal. Rptr. 739 (Ct. App. 1971).	A sudden mental illness does not preclude a driver from negligence. *Bashi v. Wodarz*, 53 Cal. Rptr.2d 635 (Cal. 1996).
COLORADO	**Sudden Emergency Doctrine Abolished**. Courts follow the comparative negligence scheme, taking into consideration the totality of the circumstances including the conduct leading up to and during the sudden emergency.	*Bedor v. Johnson*, 292 P.3d 924 (Colo. 2013).	Sudden Emergency Doctrine was abolished because it simply restates comparative negligence while having the potential to mislead a jury. *Bedor v. Johnson*, 292 P.3d 924 (Colo. 2013).
CONNECTICUT	**Sudden Emergency Doctrine**. Negligence is not to be imputed to the driver of an automobile merely because he suddenly blacks out, faints, or suffers a sudden attack, losing consciousness or control of the car, when he is without premonition or warning of his condition.	*Bushnell v. Bushnell,* 131 A. 432 (Conn. 1925); *Caron v. Guiliano*, 211 A.2d 705 (Conn. Super. Ct. 1965).	The Connecticut Supreme Court has not considered the Sudden Emergency Doctrine since 1925. Criticism of the doctrine has arisen with regard to the confusion of the doctrine with respect to the standard of care and its effect on the application of comparative negligence.
DELAWARE	**Sudden Emergency Doctrine**. Where a driver of a vehicle suddenly becomes physically or mentally incapacitated without warning, he is not liable for injury resulting from the operation of a motor vehicle while so incapacitated.	*Lutzkovitz v. Murray*, 339 A.2d 64 (Del. 1975).	Where a *prima facie* case of negligence has been established by the plaintiff, the burden of proof is on the defendant to show sudden illness or attack and that such illness or attack was not anticipatable and unforeseen. *Lutzkovitz v. Murray*, 339 A.2d 64 (Del. 1975).
DISTRICT OF COLUMBIA	**Act of God Defense**. A force of nature, uncontrolled or uninfluenced by the power of man and is of such character that it could not have been prevented or avoided by foresight or prudence. Examples are tempests, lightning, earthquakes, and a sudden illness or death of a person.	*Watts v. Smith*, 226 A.2d 160 (D.C. 1967); *Christensen v. Gammons*, 197 A.2d 450 (D.C. 1964).	An unavoidable accident occurs while all persons concerned are exercising ordinary care and could not have been avoided by the exercise of legally requisite care. *Watts v. Smith*, 226 A.2d 160 (D.C. 1967).

STATE	SUDDEN MEDICAL EMERGENCY DEFENSE	AUTHORITY	COMMENTS
FLORIDA	**Sudden and Unexpected Loss of Capacity Defense**. The operator of an automobile who unexpectedly loses consciousness or becomes incapacitated is not chargeable with negligence as a result of his or her loss of control.	*Feagle v. Purvis*, 891 So.2d 1096 (Fla. App. 2004); *Bridges v. Speer*, 79 So.2d 679 (Fla. 1955).	To establish the defense of sudden and unexpected loss of capacity or consciousness, the defendant must prove (1) defendant suffered a loss of consciousness or capacity, (2.) the loss of consciousness occurred before the negligent conduct, (3.) the loss of consciousness was sudden, and (4.) the loss of consciousness was neither foreseen nor foreseeable. *Abreu v. F.E. Dev. Recycling, Inc.,* 35 So.3d 968 (Fla. App. 2010).
GEORGIA	**Act of God Defense**. The driver of an automobile who suffers an unforeseeable illness which causes him to suddenly lose consciousness and control of the automobile is not negligent.	*Eatmon v. Weeks*, 746 S.E.2d 886, 889 (Ga. 2013); *Halligan v. Broun*, 645 S.E.2d 581 (Ga. 2007).	Even if driver has suffered similar lose of consciousness and has received medical treatment for it in the past, it is a question for the jury if such knowledge combined with such acts constitutes negligence. *Co-op Cab Co. v. Arnold*, 126 S.E.2d 689 (Ga. 1962).
HAWAII	**Sudden Emergency Defense Not Recognized**. A person generally owes a duty to all foreseeable plaintiffs who are subjected to unreasonable risk of harm by person's conduct. A driver who suffers a sudden *unforeseeable* loss of consciousness does not owe a duty to others who he or she may injure while unconscious.	*Cruz v. United States*, 987 F. Supp. 1299 (D. Haw. 1997).	In determining whether a driver's incapacity to control his vehicle was foreseeable, a number of factors are considered including: driver's awareness or knowledge of the condition; if driver had sought medical advice or was under a physician's care for the condition; whether the driver had been prescribed, and had taken, medication for the condition; whether a sudden incapacity had previously occurred while driving; the number, frequency, extent, and duration of previous incapacitating episodes. *Cruz v. United States*, 987 F. Supp. 1299 (D. Haw. 1997).

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IDAHO	**Sudden Emergency Defense Discouraged**. If a jury instruction on sudden emergency can be adequately covered by general negligence instructions which take into account the sudden emergency which confronted the defendant, a sudden emergency instruction should not be given.	*Bills v. Busco*, 97 Idaho 182, 185, 541 P.2d 606, 609 (1975).	The court recognizes certain circumstances which furnish an excuse or justification for the negligence. These include (1) anything that would make compliance with a statute impossible; (2) anything over which the driver has no control which places his car in a position violative of a statute; (3) an emergency not of the driver's own making by reason of which he fails to obey a statute; and (4) an excuse specifically provided by statute. However, no cases involve a sudden medical emergency. *Bale v. Perryman*, 380 P.2d 501 (Idaho 1963).
ILLINOIS	**Act of God Instruction**. An Act of God is an unforeseeable sudden illness which renders a defendant incapable of controlling his vehicle and can preclude tort liability for a resulting collision.	*Grote v. Estate of Franklin*, 573 N.E.2d 360 (Ill. 1991); *Burns v. Grezeka*, 508 N.E.2d 449 (Ill. 1987).	Liability is only precluded if the alleged Act of God constitutes the sole and proximate cause of the injuries. *Evans v. Brown*, 246, 925 N.E.2d 1265 (Ill. 2010).
INDIANA	**Sudden Emergency Doctrine**. A driver's asserted loss of consciousness, in order to effectively excuse her failure to control the vehicle, must have been shown by a preponderance of the evidence to have occurred without fair warning or under such circumstances as to preclude her from taking reasonable precautions.	*Holcomb v. Miller*, 269 N.E.2d 885 (Ind. 1971).	The Sudden Emergency Doctrine is viable in tort actions under the Comparative Fault Act. *Compton v. Pletch*, 580 N.E.2d 664 (Ind. 1991).
IOWA	**Sudden Emergency Defense**. A driver who, through no fault of his or her own, is placed in a sudden emergency, is not chargeable with negligence if the driver exercises that degree of care which a reasonably careful person would have exercised under the same or similar circumstances.	*Hagenow v. Schmidt*, 842 N.W.2d 661(Iowa 2014).	Whether a sudden emergency occurred is typically a fact question entrusted to the jury. *Weiss v. Bal*, 501 N.W.2d 478, 481 (Iowa 1993). The burden of proof is on the party asserting the defense. *Jones v. Blair*, 387 N.W.2d 349 (Iowa 1986).
KANSAS	**No Sudden Emergency Instruction**. However, sudden emergency circumstances are a proper matter for argument by counsel.	*Crowley v. Ottken*, 578 P.2d 689 (Kan. 1978).	No cases dealing with sudden medical emergency.

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KENTUCKY	**Blackout Defense**. If a defendant demonstrates that he suddenly became incapacitated while driving, and the ensuing accident was a result thereof, and further demonstrates that the sudden incapacity was not reasonably foreseeable, he shall have a defense to any liability that would otherwise arise from the accident.	*Rogers v. Wilhelm-Olsen*, 748 S.W.2d 671 (Ky. App. 1988).	The "Blackout" Defense is an affirmative defense which must be specially pleaded. Once the court is satisfied that the defendant has produced sufficient evidence of the defense, the question of liability is for the jury to decide. *Rogers v. Wilhelm-Olsen*, 748 S.W.2d 671 (Ky. App. 1988).
LOUISIANA	**Defense of Sudden Unconsciousness**. Sudden or momentary loss of consciousness while driving is a complete defense to an action based on negligence if such loss of consciousness was not foreseeable.	*Deason v. State Farm Mut. Auto. Ins. Co.,* 209 So.2d 576 (La. App. 1967).	Driver must show by clear and convincing evidence that his sudden presence in the opposite lane was due to unexpected and unforeseen circumstances over which he had no control. *Brannon v. Shelter Mut. Ins. Co.*, 507 So.2d 194 (La. 1987); *Abadie v. City of Westwego*, 646 So.2d 1229 (La. App. 1994).
MAINE	**Sudden Emergency Doctrine.** One must act as an ordinarily prudent man might under the same or similar circumstances. However, no cases using the sudden emergency defense for a medical emergency.	*Smith v. Joe's Sanitary Mkt*., 169 A. 900 (Me. 1933).	No cases using the sudden emergency defense for a medical emergency
MARYLAND	**Defense of Unanticipated Unconsciousness**. If the driver of a motor vehicle suddenly and unforeseeably becomes physically or mentally incapacitated, he is not liable for injury resulting from the operation of the vehicle while so incapacitated.	*Moore v. Presnell*, 379 A.2d 1246 (Md. 1977).	Exception to this defense is if the driver knows his or her illness will likely cause unconsciousness. The party claiming the defense is not required to have proved its defense by showing the specific cause of the presumptively wrongful act, but need only adduce evidence sufficient to raise a fact issue for the jury. *Moore v. Presnell*, 379 A.2d 1246 (Md. 1977).
MASSACHUSETTS	**Sudden Medical Emergency Defense**. A sudden and unforeseeable physical seizure rendering an operator unable to control his motor vehicle cannot be termed negligence.	*Carroll v. Bouley*, 156 N.E.2d 687 (Mass. 1959).	Courts seem to use the term "seizure" interchangeably with heart attack and coronary occlusion which cause the driver to become unconscious. *McGovern v. Tinglof*, 181 N.E.2d 573 (Mass. 1962); *Ellingsgard v. Silver*, 223 N.E.2d 813 (Mass. 1967).

STATE	SUDDEN MEDICAL EMERGENCY DEFENSE	AUTHORITY	COMMENTS
MICHIGAN	**Sudden Emergency Doctrine**. If a driver acts according to his or her best judgment, or who, because of lack of time in which to form a judgment, omits to act in the most judicious manner is not chargeable with negligence if the emergency was not brought about by the party's own negligence.	9 Mich. Pl. & Pr. § 65:111 (2nd Ed.); *White v. Taylor Distrib. Co.,* 753 N.W.2d 591 (2008).	Although not included in the Sudden Emergency Instruction, a sudden emergency must have been unusual or totally unexpected in order for a jury to receive the Sudden Emergency Instruction. 9 Mich. Pl. & Pr. § 65:111 (2nd Ed.).
MINNESOTA	**Sudden Emergency Doctrine**. Sudden Emergency rule applies as long as the emergency is brought about by the defendant himself. Any act or failure to act amounting to negligence defeats the right to use the Sudden Emergency Doctrine.	*Kachman v. Blosberg*, 87 N.W.2d 687 (Minn. 1958).	If emergency is caused by defendant's own medical condition, he or she cannot use the Sudden Emergency Doctrine. It is treated the same as a normal negligence claim with the medical emergency as a circumstance for the jury to consider. *Kellogg v. Finnegan*, 823 N.W.2d 454(Minn. App. 2012); *Trudeau v. Sina Contracting Co.,* 62 N.W.2d 492 (Minn. 1954).
MISSISSIPPI	**Loss of Consciousness Defense**. The driver of an automobile is not ordinarily chargeable with negligence when he becomes suddenly stricken by a fainting spell or loses consciousness from an unforeseen cause and is unable to control his car	*Warren v. Pinnix*, 241 So.2d 662 (Miss. 1970).	Because of the "easy simulation of fainting and the potential for possible frauds" a defendant should present all of the evidence on this issue which is known to him, including medical testimony, if any. *Keener v. Trippe,* 222 So.2d 685 (Miss. 1969).
MISSOURI	**Act of God Defense**. Although the Sudden Emergency Doctrine is not a defense, Missouri does recognize an Act of God Defense. If driver's negligence was caused by an Act of God, they are not liable if the driver exercised due care prior to the accident	*Rohde v. St. Louis Pub. Serv. Co.,* 249 S.W.2d 417 (Mo. 1952); *Arthur v. Royse*, 574 S.W.2d 22 (Mo. App. 1978).	An Act of God defense is usually used more commonly in flood damage cases. *Kennedy v. Union Elec. Co. of Mo.,* 216 S.W.2d 756 (Mo. 1948); *Robinson v. Missouri State Highway & Transp. Comm'n*, 24 S.W.3d 67 (Mo. App. 2000).

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MONTANA	**Sudden Emergency Doctrine**. The Sudden Emergency Instruction will be given if (1) the emergency actually or apparently existed, (2) the perilous situation was not created by the person confronted, (3) alternative courses of action were open to such person or there was an opportunity to take action to avert the threatened casualty, and (4) the action taken might have been taken by a person of reasonable prudence in the same or similar situation.	*Eslinger v. Ringsby Truck Lines, Inc.,* 636 P.2d 254, 259 (Mont. 1981).	Since the passage of Montana's comparative negligence statute in 1975, the defense of contributory negligence is available to a driver who has violated a *traffic statute*, and it is for the jury to determine the comparative degree of negligence. *Reed v. Little,* 680 P.2d 937, 939 (Mont. 1984).
NEBRASKA	**Loss of Consciousness Defense**. When a driver is suddenly deprived of his senses by "blacking out," he could not comprehend the nature and quality of his acts.	*Storjohn v. Fay*, 519 N.W.2d 521, 526 (Neb. 1994).	A sudden loss of consciousness is an affirmative defense. A defendant's burden is twofold. First, the defendant must present sufficient evidence to establish that he suffered a sudden loss of consciousness prior to the accident, and second, that the loss of consciousness was not foreseeable. *Storjohn v. Fay*, 519 N.W.2d 521 (Neb. 1994).
NEVADA	**Sudden Emergency Doctrine**. Only appropriate when an unexpected condition confronts the driver while they were exercising reasonable care. Defendant must show they were suddenly placed in a position of peril through no negligence of their own.	*Posas v. Horton*, 228 P.3d 457 (Nev. 2010).	No cases using the sudden emergency defense for a medical emergency.
NEW HAMPSHIRE	**Emergency Doctrine**. There must be evidence that the defendant was called on to take immediate action to meet dangers of a sudden and unexpected occurrence, which he was not responsible for creating.	*Bonenfant v. Hamel*, 73 A.2d 125 (N.H. 1950).	Sufficient evidence of a driver blacking out included favorable weather and road conditions, lack of evasive actions such as braking or swerving, and defendant having no memory of the accident. *Frechette v. Welch,* 621 F.2d 11 (1st Cir. 1980).
NEW JERSEY	**Sudden Emergency Doctrine**. Defense may only be used in situations where a driver is confronted by an imminent situation over which he had no control, without fault on his part.	*Leighton v. Sim*, 591 A.2d 985 (N.J. App. Div. 1991).	No cases using the sudden emergency defense for a medical emergency.

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NEW MEXICO	**Sudden Emergency Doctrine not recognized**. New Mexico Supreme Court described the instruction as unnecessary, potentially confusing to the jury, and conducive to overemphasizing one party's theory of the case.	*Dunleavy v. Miller*, 862 P.2d 1212 (N.M. 1993).	No cases using the sudden emergency defense for a medical emergency.
NEW YORK	**Sudden Medical Emergency**. An operator of an automobile who experiences a sudden medical emergency will not be chargeable with negligence provided that the medical emergency was unforeseen.	*State v. Susco*, 666 N.Y.S.2d 321 (N.Y. 1997).	There is a question of fact if it was foreseeable that a diabetic who had suffered a hypoglycemic attack while driving when they had low blood sugar that morning and was driving erratically for a good distance. *Thomas v. Hulslander*, 649 N.Y.S.2d 252 (N.Y. 1996).
NORTH CAROLINA	**Sudden Incapacitation Defense**. By the great weight of authority, the operator of a motor vehicle who becomes suddenly stricken by a fainting spell or other sudden and unforeseeable incapacitation, and is, by reason of such unforeseen disability, unable to control the vehicle is not chargeable with negligence.	*Wallace v. Johnson*, 182 S.E.2d 193 (N.C. 1971).	Unconsciousness is not an element of the sudden incapacitation defense in an auto accident case. For example, such extreme pain as to be incapable of controlling the operation of a motor vehicle falls within the sudden incapacitation defense. *Word v. Jones ex rel. Moore*, 516 S.E.2d 144 (N.C. 1999).
NORTH DAKOTA	**Sudden Emergency Defense** or **Unavoidable Accident Defense.** If suddenly faced with a dangerous situation the person did not create, the person is not held to the same accuracy of judgment as one would be if there were time for deliberation.	*Harfield v. Tate*, 598 N.W.2d 840 (N.D. 1999).	North Dakota has not formally adopted a sudden medical emergency defense. However, an incapacitated driver may use the sudden emergency defense or unavoidable accident defense to argue that they were not liable for the accident. https://law.und.edu/_files/docs/ndlr/pdf/issues/87/2/87ndlr233.pdf

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OHIO	**Blackout Defense** or **Lehman Rule**. Where the driver of an automobile is suddenly stricken by a period of unconsciousness which he has no reason to anticipate and which renders it impossible for him to control the car he is driving, he is not chargeable with negligence as to such lack of control	*Roman v. Estate of Gobbo*, 791 N.E.2d 422 (Ohio 2003).	Lehman Rule: If one was guilty of what would be negligence as to a conscious person and claims not to have been negligent because of an unforeseen unconsciousness, he should have the burden of proving his condition by the preponderance of the evidence. *Lehman v. Haynam,* 133 N.E.2d 97 (Ohio 1956).
OKLAHOMA	**Unavoidable Accident Defense**. When the operator of a motor vehicle, who, while driving, becomes suddenly stricken by a fainting spell or loses consciousness from an unforeseen cause, and is unable to control the vehicle, is not chargeable with negligence or gross negligence.	*Bowers v. Wimberly*, 933 P.2d 312 (Okla. 1997).	Sudden unconsciousness was foreseeable when defendant had two prior fainting incidents. *Parker v. Washington*, 421 P.2d 861 (Okla. 1966).
OREGON	**Sudden Emergency Defense**. When the operator of a motor vehicle who, while driving, becomes suddenly stricken by a fainting spell or losses consciousness from an unforeseen cause, and is unable to control the vehicle, is not chargeable with negligence.	*van der Hout v. Johnson*, 446 P.2d 99 (Or. 1968).	Sudden unconsciousness was unforeseeable even when defendant had been suffering from the flu and had not eaten for two days. *La Vigne v. La Vigne*, 158 P.2d 557 (Or. 1945).
PENNSYLVANIA	**Sudden Medical Emergency Doctrine**. An operator of an automobile who, while driving, is suddenly stricken by an unforeseeable loss of consciousness is not chargeable with negligence.	*Freifield v. Hennessy*, 353 F.2d 97 (3rd Cir. 1965); *Shiner v. Ralston*, 64 A.3d 1 (Pa. 2013).	Defendant's coughing fit while driving falls within the Sudden Medical Emergency Doctrine and is not foreseeable. *License of Norvell,* 85 Pa. D. & C. 385 (Pa. Com. Pl. 1953).
RHODE ISLAND	**Sudden Emergency Defense**. When the driver of an automobile is confronted with an unforeseeable emergency condition not caused by his own negligence.	*Pazienza v. Reader*, 717 A.2d 644 (R.I. 1998); *Malinowski v. United Parcel Serv., Inc*., 727 A.2d 194 (R.I. 1999).	No cases using the sudden emergency defense for a medical emergency.

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SOUTH CAROLINA	**Sudden Unforeseeable Incapacity Defense** or **Imminent Peril Doctrine.** The operator of an automobile is not ordinarily chargeable with negligence if he is suddenly stricken by a fainting spell, or loses consciousness from some other unforeseen cause, and is unable to control the vehicle.	*Boyleston v. Baxley*, 133 S.E.2d 796 (S.C. 1963).	Court did not extend the sudden unforeseeable incapacity defense to a defendant who suffered a hypoglycemic episode while driving. The hypoglycemic episode was deemed foreseeable since there was sufficient warning of a hypoglycemic episode approaching. *Howle v. PYA/ Monarch, Inc.,* 344 S.E.2d 157 (S.C. Ct. App. 1986).
SOUTH DAKOTA	**Legal Excuse Doctrine**. Allows a defendant to escape liability for a technical violation of statute if the violation was the result of an emergency not of his own making.	*Meyer v. Johnson*, 254 N.W.2d 107 (S.D. 1977); *Dartt v. Berghorst*, 484 N.W.2d 891 (S.D. 1992).	No cases using the sudden emergency defense for a medical emergency. Sudden Emergency Doctrine is merely an expansion of the reasonably prudent person standard of care**.** *Meyer v. Johnson*, 254 N.W.2d 107 (S.D. 1977).
TENNESSEE	**Sudden Loss of Consciousness Defense**. The operator of a vehicle has a defense to a negligence action when the sudden loss of consciousness was not reasonably foreseeable to a prudent person.	*Beasley v. Amburgy*, 70 S.W.3d 74 (Tenn. App. 2001); *Schwandner v. Higdon*, 2011 WL 1630982 (Tenn. App. 2011).	Defendant's blackout was not reasonably foreseeable after taking Tylenol and two or three shots of Novocain for a tooth infection. *Beasley v. Amburgy*, 70 S.W.3d 74 (Tenn. App. 2001).
TEXAS	**Unavoidable Accident Defense** or **Act of God Defense**. The operator of a motor vehicle who becomes suddenly stricken by a fainting spell or otherwise loses consciousness while driving, and for this reason is unable to control the vehicle, is not chargeable with negligence or gross negligence if his loss of consciousness is due to an unforeseen cause.	*First City Nat. Bank of Houston v. Japhet*, 390 S.W.2d 70 (Tex. App. 1965); *Durham v. Wardlow*, 401 S.W.2d 372 (Tex. App. 1966).	Defendant's hypoglycemic episode was determined to be foreseeable since defendant was feeling ill prior to operating the vehicle. *Harvey v. Culpepper*, 801 S.W.2d 596 (Tex. App. 1990).
UTAH	**Unavoidable Accident Instruction No Longer Used**. The instruction runs the risk of misleading the jury and suggests that an improper type of analysis might be used to decide a case.	*Randle v. Allen*, 862 P.2d 1329 (Utah 1993).	Instead, courts apply standard elements of negligence and burden of proof. *Solorio ex rel. Solorio v. United States,* 228 F. Supp.2d 1280 (D. Utah 2002). Although, Utah still makes use of the Sudden Emergency Doctrine. *Covert v. Kennecott Copper Corp*., 461 P.2d 466, 469 (Utah 1969).

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VERMONT	**Sudden Emergency Doctrine**. The motorist may be excused from liability if a sudden and unforeseen medical event that results in a loss of consciousness causes the accident.	*Simpson v. Rood*, 872 A.2d 306 (Vt. 2005).	Only Vermont case using the Sudden Emergency Doctrine for a medical emergency.
VIRGINIA	**Sudden Medical Emergency Defense**. Where the driver of an automobile is suddenly stricken by an illness, which he has no reason to anticipate and which renders it impossible for him to control the car, he is not chargeable with negligence.	*Brinser v. Young*, 158 S.E.2d 759 (Va. 1968).	Court refuses to give the Unavoidable Accident Instruction since it merely repeats the law of negligence. But, the Sudden Medical Emergency Instruction adds new considerations to the negligence equation. *Hancock-Underwood v. Knight*, 670 S.E.2d 720 (Va. 2009).
WASHINGTON	**Unavoidable Accident Instruction** or **Sudden Mental Incapacity Defense.** A driver who becomes suddenly stricken by an unforeseen loss of consciousness, and is unable to control the vehicle, is not chargeable with negligence.	*Presleigh v. Lewis*, 534 P.2d 606 (Wash. 1975).	Washington recognizes Sudden Mental Incapacity as a defense and precludes liability for negligence while operating a vehicle. The *Breunig* test has two parts: (1) the person has no prior notice or forewarning of his or her potential for becoming disabled, and (2.) the disability renders the person incapable of conforming to the standards of ordinary care. *Ramey v. Knorr*, 124 P.3d 314 (Wash. 2005).
WEST VIRGINIA	**Sudden Emergency Doctrine**. A driver of a motor vehicle suddenly becomes physically or mentally incapacitated without warning, he cannot be held liable for any injury resulting from the operation of his vehicle while he is so incapacitated	*Keller v. Wonn*, 87 S.E.2d 453 (W. Va. 1955).	Court found that the sudden unconsciousness from hypertension was unforeseeable even after multiple doctor visits and being advised to lead a more sedentary life style including not driving an automobile. *Keller v. Wonn*, 87 S.E.2d 453 (W. Va. 1955).

STATE	SUDDEN MEDICAL EMERGENCY DEFENSE	AUTHORITY	COMMENTS
WISCONSIN	**Emergency Doctrine**. A driver is not liable for his actions when that person is faced with a sudden emergency he or she did not create.	*Totsky v. Riteway Bus Serv., Inc.,* 607 N.W.2d 637 (Wis. 2000).	Court sometimes refers to this defense as "Act of God or Unavoidable Accident Defense" when in the context of a medical emergency, but no specific distinction between the law has been set forth in case law. *Eleason v. W. Cas. & Sur. Co.,* 35 N.W.2d 301 (Wis. 1948).
WYOMING	**Sudden Emergency Doctrine**. Where a person finds himself or herself confronted with a sudden emergency, which was not brought on about his own negligence, such person has a legal right to do what appears to him at the time he should do, so long as he acts in a reasonable manner as any other person would have done under similar circumstances, to avoid an injury; and if he does so act, he will not be deemed to have been negligent even though it might afterwards be apparent that some other course of action would have been safer.	*Roberts v. Estate of Randall*, 51 P.3d 204 (Wyo. 2002).	No cases using the sudden emergency defense for a medical emergency.