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Gravely Group is making these materials available to the public, without charge, in response to the national public health emergency caused by the novel coronavirus.

Gravely Group hopes that these materials are helpful. If you choose to use them, we do request that you provide attribution to Steve Gravely.

A decorative background pattern of light blue circuit board traces and nodes on a darker blue gradient background.

EP & R:

**LIABILITY ISSUES FOR HOSPITALS AND
HEALTH SYSTEMS**

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WHY IS PREPAREDNESS IMPORTANT?

- ❖ Post-SARS, hospitals in Toronto were sued for “negligent failure to prepare”
- ❖ Similar suits are expected in Louisiana
- ❖ Hospitals will respond to disasters and provide care
- ❖ Need to mitigate exposure as best you can

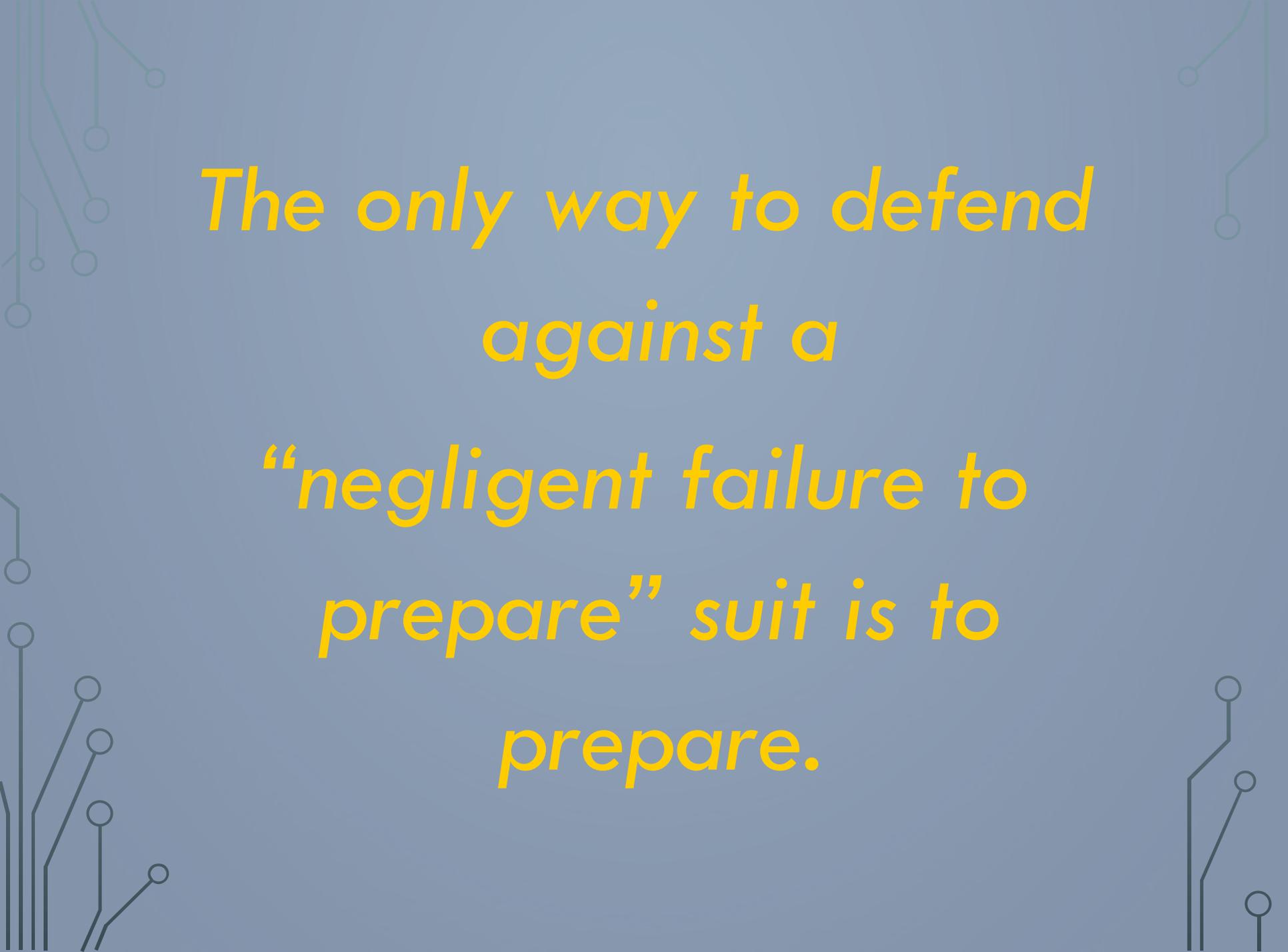
NEGLIGENT FAILURE TO PREPARE THE THEORY

- ❖ Threat is predictable

 - Hospital knows that an emergency or disaster is likely to occur

- ❖ Hospital fails to prepare for such an event

- ❖ As a result of the failure to prepare, patients incur harm for which they should receive compensation

The background is a solid blue color. In the four corners, there are decorative white line-art patterns that resemble circuit board traces or neural network connections. These patterns consist of vertical and horizontal lines that terminate in small circles, with some lines branching out at various angles.

*The only way to defend
against a
“negligent failure to
prepare” suit is to
prepare.*

OTHER AREAS OF LIABILITY CONCERN

- ❖ Altered Standards of Care during an emergency or disaster
- ❖ Compliance with labor laws and use of work quarantine
- ❖ Use of volunteers during an emergency or disaster

ALTERED STANDARDS OF CARE

- ❖ Va. Code 8.01-581.20: “That degree of skill and diligence practiced by a reasonably prudent practitioner in the [same] field of practice or specialty in this Commonwealth”
- ❖ Level of care may be degraded during an emergency
- ❖ AHRQ and the federal government have recognized altered standards but have not defined them

WORK QUARANTINE

- ❖ Invented in Toronto during SARS
- ❖ Basically home quarantine, except the healthcare worker is allowed to go to work
- ❖ Issues for the hospital
 - Can the hospital make employees come to work?
 - Is the hospital responsible for ensuring that employees comply with the quarantine?
 - Must the hospital board and feed employees who do not want to go home after exposure to a contagion?

USE OF VOLUNTEERS

- ❖ During any emergency, volunteers are crucial
- ❖ Volunteers may be lay people or health care providers
- ❖ They may offer to help in their individual capacity or as part of an organized volunteer program
- ❖ One of the biggest concerns revolves around liability for the negligent acts of volunteers

VOLUNTEER LIABILITY PROTECTION

HB 2520

- ❖ Effective July 1, 2005
- ❖ Amends the Virginia State Government Volunteers Act
- ❖ Grants sovereign immunity to MRC and CERT volunteers