

116TH CONGRESS
1ST SESSION

S. 1350

To amend the Public Health Service Act to limit the liability of health care professionals who volunteer to provide health care services in response to a disaster.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2019

Mr. CASSIDY (for himself, Mr. KING, Mrs. BLACKBURN, Mrs. SHAHEEN, Mr. CRAMER, Mr. WICKER, Ms. MURKOWSKI, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to limit the liability of health care professionals who volunteer to provide health care services in response to a disaster.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Good Samaritan
5 Health Professionals Act of 2019”.

1 **SEC. 2. LIMITATION ON LIABILITY FOR VOLUNTEER**
 2 **HEALTH CARE PROFESSIONALS.**

3 (a) IN GENERAL.—Title II of the Public Health Serv-
 4 ice Act (42 U.S.C. 202 et seq.) is amended by inserting
 5 after section 224 the following:

6 **“SEC. 224A. LIMITATION ON LIABILITY FOR VOLUNTEER**
 7 **HEALTH CARE PROFESSIONALS.**

8 “(a) LIMITATION ON LIABILITY.—Except as provided
 9 in subsection (b), a health care professional shall not be
 10 liable under Federal or State law for any harm caused
 11 by an act or omission of the professional in the provision
 12 of health care services if—

13 “(1) the professional is serving, for purposes of
 14 responding to a disaster, as a volunteer; and

15 “(2) the act or omission occurs—

16 “(A) during the period of the disaster, as
 17 determined under the laws listed in subsection
 18 (d)(1);

19 “(B) in the State or States for which the
 20 disaster is declared;

21 “(C) in the health care professional’s ca-
 22 pacity as a volunteer;

23 “(D) in the course of providing services
 24 that are within the scope of the license, reg-
 25 istration, or certification of the volunteer, as de-

1 fined by the State of licensure, registration, or
2 certification; and

3 “(E) in a good faith belief that the indi-
4 vidual being treated is in need of health care
5 services.

6 “(b) EXCEPTIONS.—Subsection (a) does not apply
7 if—

8 “(1) the harm was caused by an act or omission
9 constituting willful or criminal misconduct, gross
10 negligence, reckless misconduct, or a conscious fla-
11 grant indifference to the rights or safety of the indi-
12 vidual harmed by the health care professional; or

13 “(2) the health care professional rendered the
14 health care services under the influence (as deter-
15 mined pursuant to applicable State law) of alcohol
16 or an intoxicating drug.

17 “(c) PREEMPTION.—

18 “(1) IN GENERAL.—This section preempts the
19 laws of a State or any political subdivision of a State
20 to the extent that such laws are inconsistent with
21 this section, unless such laws provide greater protec-
22 tion from liability.

23 “(2) VOLUNTEER PROTECTION ACT.—Protec-
24 tions afforded by this section are in addition to those
25 provided by the Volunteer Protection Act of 1997.

1 “(d) DEFINITIONS.—In this section:

2 “(1) The term ‘disaster’ means—

3 “(A) a national emergency declared by the
4 President under the National Emergencies Act;

5 “(B) an emergency or major disaster de-
6 clared by the President under the Robert T.
7 Stafford Disaster Relief and Emergency Assist-
8 ance Act; or

9 “(C) a public health emergency that is de-
10 termined by the Secretary under section 319 of
11 this Act with respect to one or more States
12 specified in such determination—

13 “(i) during only the initial period cov-
14 ered by such determination; and

15 “(ii) excluding any period covered by
16 a renewal of such determination.

17 “(2) The term ‘harm’ includes physical, non-
18 physical, economic, and noneconomic losses.

19 “(3) The term ‘health care professional’ means
20 an individual who is licensed, registered, or certified
21 under Federal or State law to provide health care
22 services.

23 “(4) The term ‘health care services’ means any
24 services provided by a health care professional, or by

1 any individual working under the supervision of a
2 health care professional, that relate to—

3 “(A) the diagnosis, prevention, or treat-
4 ment of any human disease or impairment; or

5 “(B) the assessment or care of the health
6 of a human being.

7 “(5) The term ‘State’ includes each of the sev-
8 eral States, the District of Columbia, the Common-
9 wealth of Puerto Rico, the Virgin Islands, Guam,
10 American Samoa, the Northern Mariana Islands,
11 and any other territory or possession of the United
12 States.

13 “(6)(A) The term ‘volunteer’ means a health
14 care professional who, with respect to the health
15 care services rendered, does not receive—

16 “(i) compensation; or

17 “(ii) any other thing of value in lieu of
18 compensation, in excess of \$500 per year.

19 “(B) For purposes of subparagraph (A), the
20 term ‘compensation’—

21 “(i) includes payment under any insurance
22 policy or health plan, or under any Federal or
23 State health benefits program; and

24 “(ii) excludes—

1 “(I) reasonable reimbursement or al-
 2 lowance for expenses actually incurred;
 3 “(II) receipt of paid leave; and
 4 “(III) receipt of items to be used ex-
 5 clusively for rendering the health services
 6 in the health care professional’s capacity
 7 as a volunteer described in subsection
 8 (a)(1).”.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Section 224A of the Public
 11 Health Service Act, as added by subsection (a), shall
 12 take effect 90 days after the date of the enactment
 13 of this Act.

14 (2) APPLICATION.—Section 224A of the Public
 15 Health Service Act, as added by subsection (a), ap-
 16 plies to a claim for harm only if the act or omission
 17 that caused such harm occurred on or after the ef-
 18 fective date described in paragraph (1).

19 **SEC. 3. SENSE OF THE CONGRESS.**

20 It is the sense of Congress that—

21 (1) health care professionals should be encour-
 22 aged to register with the Emergency System for Ad-
 23 vance Registration of Volunteer Health Professionals
 24 (ESAR–VHP), and States should employ online reg-
 25 istration with the promptest processing possible of

1 such registrations to foster the rapid deployment
2 and utilization of volunteer health care professionals
3 following a disaster;

4 (2) Federal and State agencies and licensing
5 boards should cooperate to facilitate the timely
6 movement of properly licensed volunteer health care
7 professionals to areas affected by a disaster; and

8 (3) the appropriate licensing entities should
9 verify the licenses of volunteer health care profes-
10 sionals serving disaster victims as soon as is reason-
11 ably practical following a disaster.

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