

112TH CONGRESS
1ST SESSION

H. R. 3586

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 HOUSE OF REPRESENTATIVES

DECEMBER 7, 2011

Mr. STEARNS (for himself and Mr. MATHESON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 2011”.

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 if—

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

14 “(2) the act or omission occurs—

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

18 “(B) in the health care professional’s ca-
19 pacity as such a volunteer; and

20 “(C) in a good faith belief that the indi-
21 vidual being treated is in need of health care
22 services.

23 “(b) EXCEPTIONS.—Subsection (a) does not apply
24 if—

25 “(1) the harm was caused by an act or omission
26 constituting willful or criminal misconduct, gross

1 negligence, reckless misconduct, or a conscious fla-
2 grant indifference to the rights or safety of the indi-
3 vidual harmed by the health care professional; or

4 “(2) the health care professional rendered the
5 health care services under the influence (as deter-
6 mined pursuant to applicable State law) of intoxi-
7 cating alcohol or an intoxicating drug.

8 “(c) STANDARD OF PROOF.—In any civil action or
9 proceeding against a health care professional claiming that
10 the limitation in subsection (a) applies, the plaintiff shall
11 have the burden of proving by clear and convincing evi-
12 dence the extent to which limitation does not apply.

13 “(d) PREEMPTION.—

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

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

22 “(e) DEFINITIONS.—In this section:

23 “(1) The term ‘disaster’ means—

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

1 “(B) an emergency or major disaster de-
2 clared by the President under the Robert T.
3 Stafford Disaster Relief and Emergency Assist-
4 ance Act; or

5 “(C) a public health emergency determined
6 by the Secretary under section 319 of this Act.

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

9 “(3) The term ‘health care professional’ means
10 an individual who is licensed, certified, or authorized
11 in one or more States to practice a health care pro-
12 fession.

13 “(4) The term ‘State’ includes each of the sev-
14 eral States, the District of Columbia, the Common-
15 wealth of Puerto Rico, the Virgin Islands, Guam,
16 American Samoa, the Northern Mariana Islands,
17 and any other territory or possession of the United
18 States.

19 “(5)(A) The term ‘volunteer’ means a health
20 care professional who, with respect to the health
21 care services rendered, does not receive—

22 “(i) compensation; or

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

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

3 “(i) includes payment under any insurance
4 policy or health plan, or under any Federal or
5 State health benefits program; and

6 “(ii) excludes—

7 “(I) reasonable reimbursement or al-
8 lowance for expenses actually incurred;

9 “(II) receipt of paid leave; and

10 “(III) receipt of items to be used ex-
11 clusively for rendering the health services
12 in the health care professional’s capacity
13 as a volunteer described in subsection
14 (a)(1).”.

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—This Act and the amend-
17 ment made by subsection (a) shall take effect 90
18 days after the date of the enactment of this Act.

19 (2) APPLICATION.—This Act applies to any
20 claim for harm caused by an act or omission of a
21 health care professional where the claim is filed on
22 or after the effective date of this Act, but only if the
23 harm that is the subject of the claim or the conduct

1 that caused such harm occurred on or after such ef-
2 fective date.

○