

115TH CONGRESS  
1ST SESSION

# S. 781

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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2017

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

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## 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 2017”.

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 of  
24          compensation, in excess of \$500 per 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  
24 that caused such harm occurred on or after such ef-  
25 fective date.

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

2 It is the sense of the Congress that—

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

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

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