

109TH CONGRESS
1ST SESSION

H. R. 3962

To amend the Public Health Service Act to provide liability protections for employees and contractors of health centers under section 330 of such Act who provide health services in emergency areas.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2005

Mr. SCHWARZ of Michigan introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to provide liability protections for employees and contractors of health centers under section 330 of such Act who provide health services in emergency areas.

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. PUBLIC HEALTH SERVICE ACT; LIABILITY PRO-**
4 **TECTIONS FOR HEALTH-CENTER PRACTI-**
5 **TIONERS PROVIDING SERVICES IN EMER-**
6 **GENCY AREAS.**

7 (a) IN GENERAL.—Section 224(g) of the Public
8 Health Service Act (42 U.S.C. 233(g)) is amended—

1 (1) in paragraph (1)(B)(ii), by striking “sub-
2 paragraph (C)” and inserting “subparagraph (C)
3 and paragraph (6)”; and

4 (2) by adding at the end the following para-
5 graph:

6 “(6)(A) Subject to subparagraph (C), paragraph
7 (1)(B)(ii) applies to health services provided to individuals
8 who are not patients of the entity involved if, as deter-
9 mined under criteria issued by the Secretary, the following
10 conditions are met:

11 “(i) The services are provided by a contractor
12 or employee of the entity who is a physician or other
13 licensed or certified health care practitioner and who
14 is otherwise deemed to be an employee for purposes
15 of paragraph (1)(A) when providing services with re-
16 spect to the entity.

17 “(ii) The services are provided in an emergency
18 area (as defined in subparagraph (D)).

19 “(iii) The services of the contractor or employee
20 (referred to in this paragraph as the ‘out-of-area
21 practitioner’) are provided under an arrangement
22 with—

23 “(I) an entity that is deemed to be an em-
24 ployee for purposes of paragraph (1)(A) and
25 that serves the emergency area involved (re-

1 ferred to in this paragraph as an ‘emergency-
2 area entity’; or

3 “(II) a Federal agency that has respon-
4 sibilities regarding the provision of health serv-
5 ices in such area during the emergency.

6 “(iv) The purposes of the arrangement are—

7 “(I) to coordinate, to the extent prac-
8 ticable, the provision of health services in the
9 emergency area by the out-of-area practitioner
10 with the provision of services by the emergency-
11 area entity, or by the Federal agency, as the
12 case may be;

13 “(II) to identify a location in the emer-
14 gency area to which such practitioner should re-
15 port for purposes of providing health services,
16 and to identify an individual or individuals in
17 the area to whom the practitioner should report
18 for such purposes; and

19 “(III) to verify the identity of the practi-
20 tioner and that the practitioner is licensed or
21 certified by one or more of the States.

22 “(v) With respect to the licensure or certifi-
23 cation of health care practitioners, the provision of
24 services by the out-of-area practitioner in the emer-

1 gency area is not a violation of the law of the State
2 in which the area is located.

3 “(B) In issuing criteria under subparagraph (A), the
4 Secretary shall take into account the need to rapidly enter
5 into arrangements under such subparagraph in order to
6 provide health services in emergency areas promptly after
7 the emergency begins.

8 “(C) Subparagraph (A) applies with respect to an act
9 or omission of an out-of-area practitioner only to the ex-
10 tent that the practitioner is not immune from liability for
11 such act or omission under the Volunteer Protection Act
12 of 1997.

13 “(D) For purposes of this paragraph, the term ‘emer-
14 gency area’ means a geographic area for which—

15 “(i) the Secretary has made a determination
16 under section 319 that a public health emergency
17 exists; or

18 “(ii) a presidential declaration of major disaster
19 has been issued under section 401 of the Robert T.
20 Stafford Disaster Relief and Emergency Assistance
21 Act.”.

22 (b) EFFECTIVE DATE.—With respect to paragraph
23 (6) of section 224(g) of the Public Health Service Act,
24 as added by subsection (a) of this section:

1 (1) Except as provided in this subsection, an
2 arrangement under subparagraph (A)(iii) of such
3 paragraph (6) is deemed to be in effect for any
4 health professional who, within the meaning of such
5 paragraph—

6 (A) is an employee or contractor of a
7 health center under section 330 of such Act;
8 and

9 (B) served or is serving as an out-of-area
10 practitioner in any emergency area declared as
11 a result of Hurricane Katrina or Hurricane
12 Rita.

13 (2) Such paragraph (6) is deemed to have
14 taken effect on August 27, 2005, for purposes of
15 paragraph (1) of this subsection. Such paragraph
16 (6) otherwise takes effect on the date of the enact-
17 ment of this Act.

18 (3) Paragraph (1) of this subsection applies
19 until the expiration of the 48-hour period beginning
20 on the date on which the Secretary of Health and
21 Human Services publishes in the Federal Register a
22 notice that the applicability of such paragraph is
23 being terminated.

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