

111TH CONGRESS
2^D SESSION

H. R. 1745

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2010

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To amend the Public Health Service Act to provide liability
protections for volunteer practitioners at health centers
under section 330 of such Act.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Family Health Care
3 Accessibility Act of 2010”.

4 **SEC. 2. LIABILITY PROTECTIONS FOR HEALTH PROFES-**
5 **SIONAL VOLUNTEERS AT COMMUNITY**
6 **HEALTH CENTERS.**

7 Section 224 of the Public Health Service Act (42
8 U.S.C. 233) is amended by adding at the end the fol-
9 lowing:

10 “(q)(1) For purposes of this section, a health profes-
11 sional volunteer at an entity described in subsection (g)(4)
12 shall, in providing a health professional service eligible for
13 funding under section 330 to an individual, be deemed to
14 be an employee of the Public Health Service for a calendar
15 year that begins during a fiscal year for which a transfer
16 was made under paragraph (4)(C). The preceding sen-
17 tence is subject to the provisions of this subsection.

18 “(2) In providing a health service to an individual,
19 a health care practitioner shall for purposes of this sub-
20 section be considered to be a health professional volunteer
21 at an entity described in subsection (g)(4) if the following
22 conditions are met:

23 “(A) The service is provided to the individual at
24 the facilities of an entity described in subsection
25 (g)(4), or through offsite programs or events carried
26 out by the entity.

1 “(B) The entity is sponsoring the health care
2 practitioner pursuant to paragraph (3)(B).

3 “(C) The health care practitioner does not re-
4 ceive any compensation for the service from the indi-
5 vidual or from any third-party payer (including re-
6 imbursement under any insurance policy or health
7 plan, or under any Federal or State health benefits
8 program), except that the health care practitioner
9 may receive repayment from the entity described in
10 subsection (g)(4) for reasonable expenses incurred
11 by the health care practitioner in the provision of
12 the service to the individual.

13 “(D) Before the service is provided, the health
14 care practitioner or the entity described in sub-
15 section (g)(4) posts a clear and conspicuous notice
16 at the site where the service is provided of the extent
17 to which the legal liability of the health care practi-
18 tioner is limited pursuant to this subsection.

19 “(E) At the time the service is provided, the
20 health care practitioner is licensed or certified in ac-
21 cordance with applicable law regarding the provision
22 of the service.

23 “(3) Subsection (g) (other than paragraphs (3) and
24 (5)) and subsections (h), (i), and (l) apply to a health care
25 practitioner for purposes of this subsection to the same

1 extent and in the same manner as such subsections apply
2 to an officer, governing board member, employee, or con-
3 tractor of an entity described in subsection (g)(4), subject
4 to paragraph (4) and subject to the following:

5 “(A) The first sentence of paragraph (1) ap-
6 plies in lieu of the first sentence of subsection
7 (g)(1)(A).

8 “(B) With respect to an entity described in sub-
9 section (g)(4), a health care practitioner is not a
10 health professional volunteer at such entity unless
11 the entity sponsors the health care practitioner. For
12 purposes of this subsection, the entity shall be con-
13 sidered to be sponsoring the health care practitioner
14 if—

15 “(i) with respect to the health care practi-
16 tioner, the entity submits to the Secretary an
17 application meeting the requirements of sub-
18 section (g)(1)(D); and

19 “(ii) the Secretary, pursuant to subsection
20 (g)(1)(E), determines that the health care prac-
21 titioner is deemed to be an employee of the
22 Public Health Service.

23 “(C) In the case of a health care practitioner
24 who is determined by the Secretary pursuant to sub-
25 section (g)(1)(E) to be a health professional volun-

1 teer at such entity, this subsection applies to the
2 health care practitioner (with respect to services per-
3 formed on behalf of the entity sponsoring the health
4 care practitioner pursuant to subparagraph (B)) for
5 any cause of action arising from an act or omission
6 of the health care practitioner occurring on or after
7 the date on which the Secretary makes such deter-
8 mination.

9 “(D) Subsection (g)(1)(F) applies to a health
10 care practitioner for purposes of this subsection only
11 to the extent that, in providing health services to an
12 individual, each of the conditions specified in para-
13 graph (2) is met.

14 “(4)(A) Amounts in the fund established under sub-
15 section (k)(2) shall be available for transfer under sub-
16 paragraph (C) for purposes of carrying out this sub-
17 section.

18 “(B) Not later May 1 of each fiscal year, the Attor-
19 ney General, in consultation with the Secretary, shall sub-
20 mit to the Congress a report providing an estimate of the
21 amount of claims (together with related fees and expenses
22 of witnesses) that, by reason of the acts or omissions of
23 health professional volunteers, will be paid pursuant to
24 this section during the calendar year that begins in the
25 following fiscal year. Subsection (k)(1)(B) applies to the

1 estimate under the preceding sentence regarding health
2 professional volunteers to the same extent and in the same
3 manner as such subsection applies to the estimate under
4 such subsection regarding officers, governing board mem-
5 bers, employees, and contractors of entities described in
6 subsection (g)(4).

7 “(C) Not later than December 31 of each fiscal year,
8 the Secretary shall transfer from the fund under sub-
9 section (k)(2) to the appropriate accounts in the Treasury
10 an amount equal to the estimate made under subpara-
11 graph (B) for the calendar year beginning in such fiscal
12 year, subject to the extent of amounts in the fund.

13 “(5)(A) This subsection takes effect on October 1,
14 2011, except as provided in subparagraph (B).

15 “(B) Effective on the date of the enactment of this
16 subsection—

17 “(i) the Secretary may issue regulations for car-
18 rying out this subsection, and the Secretary may ac-
19 cept and consider applications submitted pursuant to
20 paragraph (3)(B); and

