

113TH CONGRESS
2D SESSION

H. R. 4750

To clarify the treatment of health care provider standards of care under
Federal health care provisions.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2014

Mr. GINGREY of Georgia (for himself and Mr. CUELLAR) 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 clarify the treatment of health care provider standards
of care under Federal health care provisions.

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 “Standard of Care Pro-
5 tection Act of 2014”.

1 **SEC. 2. RULE OF CONSTRUCTION REGARDING HEALTH**
2 **CARE PROVIDER STANDARDS OF CARE.**

3 (a) MAINTENANCE OF STATE STANDARDS.—The de-
4 velopment, recognition, or implementation of any guideline
5 or other standard under any Federal health care provision
6 shall not be construed—

7 (1) to establish the standard of care or duty of
8 care owed by a health care provider to a patient in
9 any medical malpractice or medical product liability
10 action or claim; or

11 (2) to preempt any standard of care or duty of
12 care, owed by a health care provider to a patient,
13 duly established under State or common law.

14 (b) DEFINITIONS.—For purposes of this Act:

15 (1) FEDERAL HEALTH CARE PROVISION.—The
16 term “Federal health care provision” means any
17 provision of the Patient Protection and Affordable
18 Care Act (Public Law 111–148), title I or subtitle
19 B of title II of the Health Care and Education Rec-
20 onciliation Act of 2010 (Public Law 111–152), or
21 title XVIII or XIX of the Social Security Act.

22 (2) HEALTH CARE PROVIDER.—The term
23 “health care provider” means any individual or enti-
24 ty—

1 (A) licensed, registered, or certified under
2 Federal or State laws or regulations to provide
3 health care services; or

4 (B) required to be so licensed, registered,
5 or certified but that is exempted by other stat-
6 ute or regulation.

7 (3) **MEDICAL MALPRACTICE OR MEDICAL PROD-**
8 **UCT LIABILITY ACTION OR CLAIM.**—The term “med-
9 ical malpractice or medical product liability action or
10 claim” means a medical malpractice action or claim
11 (as defined in section 431(7) of the Health Care
12 Quality Improvement Act of 1986 (42 U.S.C.
13 11151(7))) and includes a liability action or claim
14 relating to a health care provider’s prescription or
15 provision of a drug, device, or biological product (as
16 such terms are defined in section 201 of the Federal
17 Food, Drug, and Cosmetic Act or section 351 of the
18 Public Health Service Act).

19 (4) **STATE.**—The term “State” includes the
20 District of Columbia, Puerto Rico, and any other
21 commonwealth, possession, or territory of the United
22 States.

23 **SEC. 3. PRESERVATION OF STATE LAW.**

24 No provision of the Patient Protection and Affordable
25 Care Act (Public Law 111–148), title I or subtitle B of

1 title II of the Health Care and Education Reconciliation
2 Act of 2010 (Public Law 111–152), or title XVIII or XIX
3 of the Social Security Act shall be construed to preempt
4 any State or common law governing medical professional
5 or medical product liability actions or claims.

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