

113TH CONGRESS
2D SESSION

S. 2196

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 SENATE OF THE UNITED STATES

APRIL 1, 2014

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 2014”.

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 (f)(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) RULE OF CONSTRUCTION.—Nothing in this sec-
 23 tion shall supplant any other provision of Federal, State,
 24 local, or tribal law that establish liability schemes or liabil-
 25 ity protections that exceed those provided by this section,

1 including without limitation the provisions of chapter 171
 2 of title 28, United States Code (commonly known as the
 3 Federal Tort Claims Act).

4 “(f) DEFINITIONS.—In this section:

5 “(1) The term ‘disaster’ means—

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

8 “(B) an emergency or major disaster de-
 9 clared by the President under the Robert T.
 10 Stafford Disaster Relief and Emergency Assist-
 11 ance Act; or

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

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

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

20 “(4) The term ‘State’ includes each of the sev-
 21 eral States, the District of Columbia, the Common-
 22 wealth of Puerto Rico, the Virgin Islands, Guam,
 23 American Samoa, the Northern Mariana Islands,
 24 and any other territory or possession of the United
 25 States.

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

4 “(i) compensation; or

5 “(ii) any other thing of value in lieu
 6 of compensation, in excess of \$500 per
 7 year.

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

10 “(i) includes payment under any insurance
 11 policy or health plan, or under any Federal or
 12 State health benefits program; and

13 “(ii) excludes—

14 “(I) reasonable reimbursement or al-
 15 lowance for expenses actually incurred;

16 “(II) receipt of paid leave; and

17 “(III) receipt of items to be used ex-
 18 clusively for rendering the health services
 19 in the health care professional’s capacity
 20 as a volunteer described in subsection
 21 (a)(1).”.

22 (b) EFFECTIVE DATE.—

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

1 (2) APPLICATION.—This Act applies to any
2 claim for harm caused by an act or omission of a
3 health care professional where the claim is filed on
4 or after the effective date of this Act, but only if the
5 harm that is the subject of the claim or the conduct
6 that caused such harm occurred on or after such ef-
7 fective date.

○