

116TH CONGRESS
2D SESSION

H. R. 7059

To provide for liability protection for health care providers for damages with respect to any harm caused by any act or omission of such health care professional or related health care entity in the course of arranging for or providing health care services during the COVID–19 public health emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2020

Mr. DAVID P. ROE of Tennessee (for himself and Mr. CORREA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for liability protection for health care providers for damages with respect to any harm caused by any act or omission of such health care professional or related health care entity in the course of arranging for or providing health care services during the COVID–19 public health emergency period, and for other purposes.

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 “Coronavirus Provider
5 Protection Act”.

1 **SEC. 2. LIMITATION ON LIABILITY FOR HEALTH CARE PRO-**
2 **FESSIONALS AND RELATED HEALTH CARE**
3 **ENTITIES RELATED TO COVID-19 EMERGENCY**
4 **RESPONSE.**

5 (a) LIMITATION ON LIABILITY.—Except as provided
6 in subsection (b), a covered health care provider shall not
7 be liable for damages under any law of the United States
8 or of any State (or political subdivision thereof) for any
9 harm caused by any act or omission of such covered health
10 care provider in the course of arranging for or providing
11 health care services if such health care services were pro-
12 vided in good faith or were withheld for reasons related
13 to the COVID–19 pandemic and the act or omission—

14 (1) occurs—

15 (A) during the emergency period or during
16 the 60-day period following the termination of
17 such emergency period; and

18 (B) in the course of providing health care
19 services that, with respect to a health care pro-
20 fessional—

21 (i) are within the scope of the license,
22 registration, or certification of the health
23 care professional, as defined by the State
24 of licensure, registration, or certification;

25 (ii) do not exceed the scope of license,
26 registration, or certification of a substan-

1 tially similar health care professional in
2 the State in which such act or omission oc-
3 curs; and

4 (iii) may be outside the health care
5 professional's normal area of practice; or

6 (C) in the course of providing health care
7 services that, with respect to a related health
8 care facility, are within the licensure and ac-
9 creditation of the related health care entity; and
10 (2) is committed (or not undertaken)—

11 (A) based upon any direction, guidance,
12 recommendation, or other statement made by a
13 Federal, State, or local official to address or in
14 response to the COVID–19 pandemic;

15 (B) based upon any guidance published by
16 any Federal, State or local department or any
17 division or agency of such department in re-
18 sponse to the COVID–19 pandemic; or

19 (C) due to a lack of resources, including
20 manpower, attributable to the COVID–19 pan-
21 demic.

22 (b) EXCEPTIONS.—Subsection (a) does not apply
23 with respect to harm caused by an act or omission of a
24 covered health care provider, as described in such sub-
25 section, if—

1 (1) the act or omission constitutes willful or
2 criminal misconduct, gross negligence, reckless mis-
3 conduct, or a conscious flagrant indifference to the
4 rights or safety of the individual harmed by the cov-
5 ered health care provider; or

6 (2) the health care provider provided the health
7 care services under the influence (as determined pur-
8 suant to applicable State law) of alcohol or an in-
9 toxicating drug (other than a prescription drug
10 taken under the orders of a physician).

11 (c) PREEMPTION.—

12 (1) IN GENERAL.—This section preempts the
13 laws of a State or any political subdivision of a State
14 to the extent that such laws are inconsistent with
15 this section, unless such laws provide greater protec-
16 tion from liability.

17 (2) VOLUNTEER PROTECTION ACT.—Protec-
18 tions afforded by this section are in addition to those
19 provided by the Volunteer Protection Act of 1997
20 (Public Law 105–19).

21 (d) DEFINITIONS.—In this section:

22 (1) The term “covered health care provider”
23 means—

24 (A) a health care professional; or

25 (B) a related health care entity.

1 (2) The term “emergency period” has the
2 meaning given such term in section 1135(g)(1)(B)
3 of the Social Security Act (42 U.S.C. 1320b–
4 5(g)(1)(B)).

5 (3) The term “harm” includes physical, non-
6 physical, economic, and noneconomic injury or
7 losses.

8 (4) The term “health care professional” means
9 an individual who is licensed, registered, or certified
10 under Federal or State law to provide health care
11 services.

12 (5) The term “related health care entity”
13 means an entity with which a health care profes-
14 sional has a professional affiliation under which the
15 health care professional performs health care serv-
16 ices, including a skilled nursing facility, hospital,
17 academic medical center, ambulatory surgical center,
18 group medical practice, or medical clinic.

19 (6) The term “professional affiliation” includes
20 staff privileges, medical staff membership, employ-
21 ment or contractual relationship, partnership or
22 ownership interest, academic appointment, or other
23 affiliation under which a health care professional
24 provides health care services on behalf of, or in asso-
25 ciation with, the related health care entity.

1 (7) The term “health care services” means any
2 services rendered or items provided by a health care
3 professional or related health care entity, or by any
4 individual working under the supervision of a health
5 care professional, that relate to—

6 (A) the treatment, diagnosis, prevention,
7 or mitigation of COVID–19;

8 (B) the treatment, diagnosis, or care with
9 respect to an individual with a confirmed or
10 suspected case of COVID–19; or

11 (C) the treatment, diagnosis, or care with
12 respect to an individual who presents to a
13 health care professional or related health care
14 entity during the emergency period.

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